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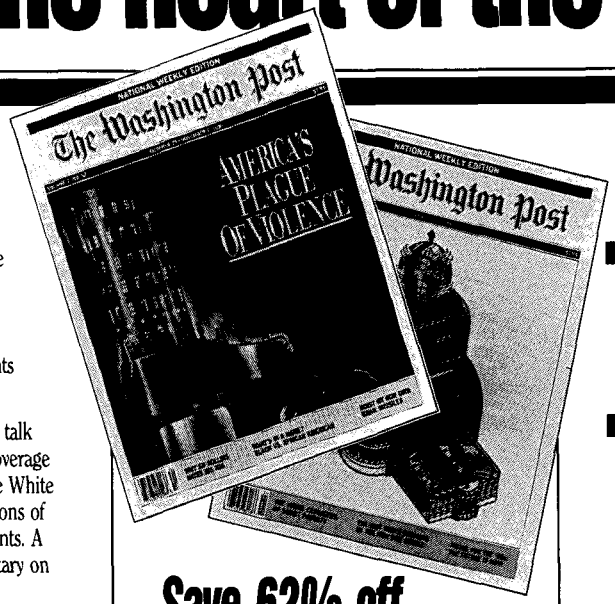

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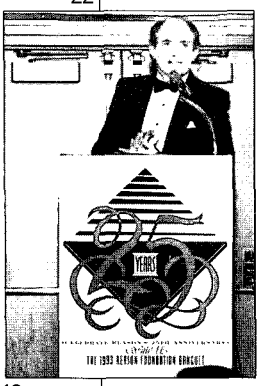

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BORDER WAR

VIRGINIA I. POSTREL

In his 1987 interview with REASON, Clarence Thomas said people in Washington need to ask the big-picture questions, starting with this one: "What is there about this country that will lead people to crawl through sewers, get on innertubes and float across miles of water, to sneak out in the middle of the night, to cram in under trucks and buses, and other things, risk their lives going across mountains, etc.—what is it about this country that people will do all those things to come in, and what is it about the Soviet Union or Cuba or the Eastern Bloc countries that would force people to do those same things to get out?"

California Gov. Pete Wilson thinks it's welfare. And he's dead wrong.

During the Cold War, Americans instinctively understood what their country was about, what it offered that was special, why a pregnant woman would go to extreme lengths to have her baby born on U.S. soil. When I was a little girl, my father told me that such a woman had burst into the U.S. embassy in Moscow and stayed until her child was born a U.S. citizen. I don't know if that story was literally true, but it was the kind of story Americans told their children to teach them important truths about their country: that to be an American was to be free; that freedom was a precious commodity, rare in the world; and that to appreciate freedom was to cheer for the woman who wanted her child to have it.

Sometime after the Wall fell, however, a lot of Americans forgot what their country was about. Now Wilson, along with a growing number of ambitious politicians of both parties, wants to sacrifice the meaning of America to save the welfare state.

Wilson wants to change the U.S. Constitution to deny citizenship to children born here if their parents are illegal immigrants. The proposal is murky: Does it apply if one parent is legal? What if the mother is here on a tourist visa? What happens if one of these non-citizens marries a citizen and has children? Will those children be citizens, or shall we apply the old "one drop" rule that governed race in the Jim Crow South? What shall we do about the new underclass of uneducated non-citizens created as illegal immigrants drawn here to work have children?

But this radical proposal is wrong at a much more fundamental level. It repudiates the founding principles of the country. And it does so to keep the welfare state working at full tilt.

Wilson says we must adopt lineage-based standards of citizenship because "federally imposed expenditures for illegal immigrants have effectively compelled the denial of needed services to legal residents," including "important preventive children's programs (in health, safety, mental health counseling, pre-school)," Wilson's pet programs.

The governor evinces no interest in lightening the burden on the taxpayer. He just wants to transfer the money from one group of net tax-consumers to another. He *loves* ever-expanding social programs. He doesn't want to cut them. So he attacks illegal immigrants for using services they, as non-voters, had nothing to do with establishing, expanding, or raising taxes to fund. Immigrants who come here to work long hours at hard jobs get blamed for the burden of programs designed mostly for native-born Americans who don't work.

The advocates of "controlling our borders" misunderstand the history and meaning of those borders. American sovereignty is defined not by the protection of the borders but by the recognition and protection of the natural rights of the people within those borders.

And the first, most natural right is freedom of movement: "Liberty, or freedom, signifieth, properly, the absence of opposition; by opposition, I mean external impediments to motion." That's Thomas Hobbes in *Leviathan*.

Frederick Douglass, who knew a thing or two about illegal immigration (to the North, then England until friends bought his freedom), put it this way. Consider, he said, "the passport system on the continent of Europe. That system you utterly condemn. You look upon it as an unjust and wicked interference, a bold and infamous violation of the *natural* and *sacred* right of locomotion. You hold, (and so do I,) that the image of our common God ought to be a passport all over the habitable world. But bloody and tyrannical governments have ordained otherwise; they usurp authority over you, and decide for you, on what conditions you shall travel. They say, you shall have a passport, or you shall be put in prison."

Extensive border controls are a new invention, barely practiced even in Europe until World War I. A century ago, free people still considered them an offense against liberty. When English author Norman Angell left for America in the 1890s, he later recalled, "I had no passport, no exit permit, no visa, no number on a quota, and none of those things was asked for on my arrival in the United States." Yet, despite the claims of today's anti-immigrant groups, no one in those days doubted U.S. sovereignty.

The debate over immigration, legal and illegal, isn't really about the Statue of Liberty or whether someone's grandfather would have escaped the Holocaust

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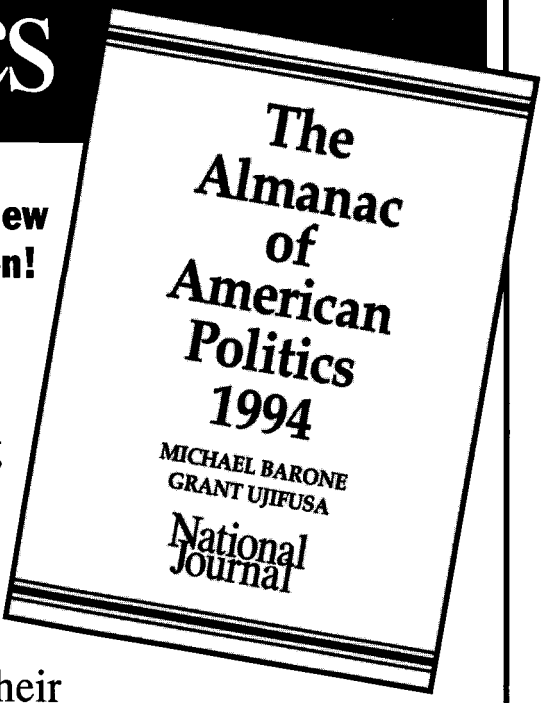

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if Pete Wilson had been running immigration policy in the early part of the century. It is about the old question of *Huckleberry Finn*: whether it is wrong to break the law by protecting an individual's freedom.

People who make a sacred principle of the laws against border crossing misunderstand the country in which they live. This is not Germany. America is not a culture that respects law above natural liberty. It is the country of Frederick Douglass and Benjamin Franklin, law breakers who fled slavery and apprenticeship to claim their own lives. It is a cantankerous country, uncomfortable with authority, unlikely to countenance house-to-house searches for illegal nannies or tolerate police who patrol the streets demanding residency papers from random pedestrians.

The immigration laws are not sacred. To the contrary, they are profoundly un-American. That is why even people who grudgingly put up with some impediments to immigration are so uncomfortable with efforts to demonize illegal immigrants as vicious, thieving law breakers. We aren't irrational or inconsistent. We just haven't forgotten that the promise of America is not a welfare check. It is freedom.

LESSON NOT LEARNED

RICK HENDERSON

On *Meet the Press* July 25, moderator Tim Russert asked Treasury Secretary Lloyd Bentsen whether the floods in the Midwest would drag the nation's economy downward. No, Bentsen said confidently, the floods might *stimulate* the economy. "A lot of concrete will be poured," he said. "You have to look at all the jobs that will be created to repair the damage."

Bentsen probably thought his brief seminar in political economy would reassure devastated Midwesterners and skittish investors; his economic ignorance should have scared the hell out of them instead. A book first published in 1946, the year of Bill Clinton's birth, could have straightened the secretary out.

"Though some [opinion leaders] would disdain to say that there are net benefits in small acts of destruction, they see almost endless benefits in enormous acts of destruction." So wrote Henry Hazlitt in his classic *Economics in One Lesson*. The 98-year-old Hazlitt died two weeks before Bentsen's television appearance. As statists reassert themselves in Washington, Hazlitt's clear writing and sound thinking on economic policy will be sorely missed.

"The art of economics," Hazlitt wrote, "consists in looking not merely at the immediate but at the longer effects of any act or policy; it consists in tracing the consequences of that policy not merely for one group but for all groups."

Every government program, even laudable ones like flood relief, exacts a price. When the government decides to "create jobs," the money spent to pour concrete, reinforce levees, and rebuild homes will be diverted from other purposes that, given the option, individuals might have valued more.

Slick-talking politicians try to disguise these opportunity costs every time they argue that some new spending program can "grow the economy" at no cost. Hazlitt pointed out that every dollar the government spends must either be taken from someone's pocket now (through taxes) or later (through deficits, which must eventually be taxed or inflated away).

A *New York Times* obituary of Hazlitt noted that more than 600,000 copies of *Economics in One Lesson* have been sold over the years. The book continues to be both timeless and prescient—indeed, prescient enough that you might consider it a book-length repudiation of Clintonomics. Name any Clinton proposal: infrastructure investment, defense conversion, supporting critical technologies, raising marginal tax rates. Hazlitt debunked it.

Unlike the president, for instance, Hazlitt distinguished between legitimate public investments and political pork. When a bridge "is built to meet an insistent public demand," he wrote, and "is even more necessary to the taxpayers collectively than the things for which they would have individually spent their money if it had not been taxed away from them, there can be no objection. But a bridge built primarily 'to provide employment' is a different kind of bridge....Instead of asking themselves where bridges *must* be built, the government spenders begin to ask themselves where bridges *can* be built." Spending money becomes an end in itself.

The floods underscore a point Hazlitt often repeated: "The wanton destruction of anything of real value is always a net loss, a misfortune, or a disaster, and...can never be, on net balance, a boon or a blessing." Unfortunately, Lloyd Bentsen and his colleagues in the Clinton administration continue to see blessings in their wanton acts of destruction.

IN MEMORIAM

The cause of liberty lost one of its freest minds and most stubborn champions with the death of Petr Beckmann on August 3. Best known as the publisher of the monthly newsletter *Access to Energy*, Petr championed not just free markets but science, technology, and intellectual freedom. Born in Prague in 1924, he was an indefatigable foe of environmental extremism, seeing in it the totalitarian elements that had marked the Nazis and Communists and sent many of his relatives to their deaths. He used his newsletter and Golem Press books to educate readers on the science behind the scares in lucid prose leavened with a sarcastic sense of humor. Always he told readers not to take his word for anything but to use their own reason and research to verify his claims. He was a true original, determinedly writing his 20th-anniversary newsletter from his hospital bed in early July. He will be missed.

—V.I.P.

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LETTERS

Pot Pegs

Jacob Sullum does a wonderful job explaining why pushing marijuana's comparative harmlessness or its usefulness won't work ("Selling Pot," June). But I don't think stressing the injustice of prohibition will work either. Sympathetic victims of the law disappear as penalties decrease.

Arguments for legalization based on civil liberties probably won't work either. There are too many people who will happily throw away rights they don't have an immediate use for, in exchange for an illusory benefit. I also constantly hear the cries of those who feel that somehow their "right" not to have their morality offended by people with whom they rarely make contact is the most important "right" of all. Politicos like Bill Bennett and Bob Martinez need these people.

The strongest arguments that can be effectively used are probably the pragmatic ones: 1) We've spent hundreds of billions on this war and haven't accomplished a thing. 2) Those billions came out of your pocket. 3) The violence spawned by prohibition could well result in your robbery or death. 4) Decriminalization did not lead to a tidal wave of pot abuse. 5) Education is vastly more effective at preventing drug abuse than law enforcement. 6) To legalize is not the same as to condone. It is to create some control where none now exists.

Chris Rising
Santa Clarita, CA

WHAT IS MISSING for me in Jacob Sullum's otherwise excellent essay is an attack on the real force behind this contemporary medicalization movement: those drug-policy reformers advocating the "public-health approach" to drugs and addiction. What these charlatans propose is to resurrect the ideas of Benjamin Rush, father of American psychiatry and the temperance movement.

Rush medicalized socially deviant behavior. He invented mental illness and argued that people who used hard liquor were sick. Drug-policy reformers argue that drugs should be legalized because people who want to use them are sick. The sicknesses include glaucoma, nausea from cancer chemotherapy, pain from terminal illness, and addiction.

I submit that the real drug mistakes are to repeat the attitudes about drugs that culminated in Prohibition, as well as those toward addiction following repeal, i.e., the idea that addiction is a treatable disease. Liberty is threatened either way.

Jeffrey A. Schaler
Silver Spring, MD

JACOB SULLUM SEEMS to blame the reformers for the lazy, biased, subservient, and corrupt coverage by the mass media while missing several fundamental items that point toward the root of the problem.

If our Constitution is to mean anything, citizens must be free to make their own decisions about their own personal health and welfare (excluding behavior that is a clear and present danger to others), especially in regard to holy seed-bearing herbs that have been used since time immemorial to ease pain and suffering. The right to self-medicate would be inviolate in a free society. This would be true even if all the drug-war horrors were effects of the plants rather than the bans.

Plant prohibitions are based solely on hearsay and emotional pleas from racists ignorant of the plant's pharmacology. Science, medicine, history, and law-enforcement needs played no rational role in outlawing some of the most useful plants on the planet.

Personal use is a phony issue. Prohibition has stopped virtually no one from smoking or eating hemp. In fact, it has probably increased the number of those familiar with pot. But prohibition has completely stopped the American farmer from growing the premier renewable crop for fuel, fiber, food, paper, protein, and oil

for the free agricultural market. Prohibition is a huge taxpayer subsidy to fossil fascism, organized crime, and the police.

Cullen Stuart
Lincoln, ME

THE "SMOKE A JOINT, lose your license" provision of the 1990 U.S. transportation appropriation act, mentioned by Jacob Sullum, requires, as a condition for receiving certain future federal funds, only that a state's legislature consider, not necessarily pass, legislation requiring driver's-license suspensions for all drug offenses. At New Yorkers for Drug Policy Reform, we're trying to inform our state's legislators of that distinction. At least one other state has taken the opt-out path and rejected such legislation.

Robert Goodman
Bronx, NY

AS A DRUG-POLICY activist who came of age during the current war on drugs instead of '70s decrim, I thought "Selling Pot" was an excellent account of why my friends from the late-'70s movement were so wrong about the imminence of marijuana legalization. But Mr. Sullum is on the wrong track when he dismisses the viability of industrial and medicinal hemp products.

This year, Australia, Kazakhstan, and the United Kingdom have acknowledged the folly of prohibiting low-THC hemp cultivation. The crop can be used for ecologically sound fuel, paper, clothes—staples which current methods have made artificially expensive and polluting. All that's needed is to redefine marijuana under state and federal law.

The medicinal issue hits even closer to home for me. My father, a medical professional, was recently diagnosed with T-cell lymphoma, treatable through chemotherapy. Should he be jailed if he needs to self-medicate with cannabis brownies to tolerate chemo-poisoning?

If drug-policy elites truly desire harm reduction now, they should support timely political and lobbying activities rather than merely criticizing the inappropriate tactics of some of the grass roots (pun definitely intended) of our movement.

Douglas Greene
Cedarhurst, NY

Mr. Sullum replies: A careful reading of my article will show that I did not dismiss the commercial viability of hemp. My point was that even if we accept all of the hemp movement's claims (and I do accept most of them), its approach is wrong for a general audience because it needlessly complicates the issue and invites skepticism.

Principles and Purity

Paul Weaver is right on the mark when he says that "the private sector has been no haven of decency and principle" ("Do-Good Libertarianism," May). Libertarians' failure to stress this fact created this result, for example:

Twice during 1992, Andre Marrou was

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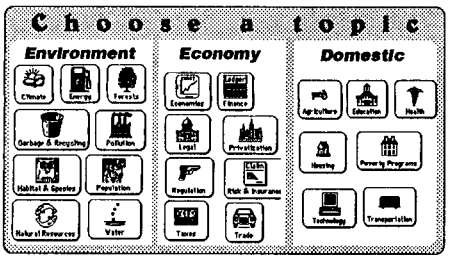

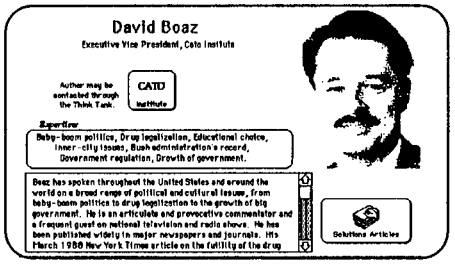
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LETTERS

contacted by talk-show host Michael Harrison of WTIC-AM in Hartford, Connecticut. The first time, Marrou responded to a Ralph Nader criticism by saying, "Big business never hurt anybody." The second time, Marrou mentioned drivers taking turns at a dead stoplight as an example of private citizens functioning without government. As soon as the interview was over, Harrison told his audience about private citizens fighting each other for parking spaces. Most libertarians, he said, seem to be nice people, but they are out of touch with the real world.

Weaver did omit one point: Some of the private sector's bad behavior is caused by the state's high taxes and regulations. Libertarians should stress this, too. Then they should continue to teach honesty, tolerance, and logic, and attack injustice wherever it occurs.

George N. Smith
New Hartford, CT

PAUL WEAVER SEEMS TO BE making the point that for libertarians to become more of a force in the political arena they must become less of what they are. Does Mr. Weaver really believe that libertarians need to become glad-handers and do-gooders to become more effective? If so, then he seems to believe that the way to become successful is to become like the enemy, i.e., like the Democrats and Republicans.

It is essential that we remain true to our principles, but that we become a little less shrill and a little more rational and reasonable so we may expand our base in the electorate. I disagree completely with Mr. Weaver's statement that politics is not a debate. It most definitely is. And the job for libertarians is to redefine that debate. Once the debate is defined properly, libertarians will "win" because they have the better answers; they will win because they will be seen as offering a real alternative to the prevailing political wisdom.

To say politics is more community than combat has a nice, warm and fuzzy feeling about it. But it really doesn't say much about how to implement a plan of attack to change the status quo. I would argue that libertarians could stand to start emphasizing more of the positives of their program rather than the negatives of the opposition, this being very clear from a reading of the Libertarian platform, which has too much of the "we-condemn-this-we-oppose-that" quality to it. A broad outlining and emphasizing of the principles of libertarianism will in and of itself present a positive message that the American people can relate to.

Most importantly, to say the libertarians have been "squishy soft" as regards injustice is to totally ignore the point of the libertarian perspective—namely, to create an environment in which injustice cannot survive, to ensure that the law honestly reflects the ideals of individual rights and property and in which government knows and respects the limits of its power. Libertarians understand well how government can overstep its bounds and how the law can be perverted into an instrument of injustice.

Jeffrey P. Wills
Cleveland, OH

PAUL WEAVER ARGUES that fully informed juries would "introduce into the legislative process an independent veto power that would be present every time someone attempted to administer a legitimate act of the state." My experience has led me to believe that government rarely limits itself to "administer[ing] legitimate act[s] of the state." Too many people I have known have been damaged and denied restitution by the unchecked state.

The courts, including the Supreme Court, rarely act to stop the state's exponential growth. But ultimately the citizens, who are sovereign in the sense that all government exists by their consent, have the power to slow that growth by their three votes, one at elections, one on a grand jury, and one on petit juries.

The Jeffersonian Republicans made extensive use of this "vague common-law tradition" to keep the Federalist Alien and Sedition Acts relatively toothless. If citizen

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> Just how incompetent a teacher can be and still keep the job was illustrated by an extreme case in South Carolina, where a school tried to get rid of a teacher who had been warned repeatedly about her poor teaching and poor English. At a hearing where she was given a ten-word vocabulary test, she could neither pronounce nor define the word "agrarian." She could pronounce the word "suffrage" but defined it as "people suffering from some reason or other." The word "ratify" she defined as "to get rid of something." In her own defense, she said: "I'm not saying I was the best, but I don't think I did more harm than anyone else." A judge ordered her reinstated.

Walter Williams, himself a distinguished professor of economics, sums up Dr. Sowell's achievement in the *Washington Times*:

> "We all know about the poor and deteriorating state of education in America, but we don't know all the reasons why. *Inside American Education* gives us the fullest list of particulars that I have seen ... names, dates and places on how the education establishment from kindergarten to college is destroying our children's prospects for the future, all the while taking taxpayers, parents and private foundations to the cleaners."

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juries were fully informed of their right to nullify, I doubt American juries would set free ax-murderers and child molesters any more than they do now.

I do believe that we would see fewer jurors weeping that they didn't want to put an 18-year-old first offender in prison for 10 years, but the judge said you must reach a verdict based on the letter of the law. As a non-violent person who could conceivably get into some legal trouble at some time in my life, I would prefer the jury of my peers to be fully aware of their power and responsibility to judge the law as well as me before they reach their verdict.

Brendan Trainor
Sparks, NV

Mr. Weaver replies: I thank George Smith for his comments and say amen to his concluding paragraph.

As for Mr. Wills's letter, it typifies the attitudes I was critiquing in my essay. On the one hand, Mr. Wills wants you to respect his rights and promises he'll respect yours. On the other hand, he doesn't acknowledge any independent connection with you. In effect, he wants a policy outcome but rejects the human relationships on which such an outcome would rest. Mr. Wills's limited government hangs from a political skyhook.

Mr. Wills's view is not only wrong in principle but ineffective in practice. We live in a world in which the central political game consists of touting private privilege in the name of the public interest. After a century of such manipulation, the public has caught on to the scam, and conventional liberalism and the welfare state it built have lost all credibility as a result. Classical liberalism could be the alternative the American people turn to, but only if they are assured that the ideals of Locke and Madison aren't just another high-minded ripoff. Specifically, they need to be reassured that today's classical liberals completely reject the abuse of classical-liberal principles by the movement to defend racial segregation and by business groups opposing big government in others' interest while lobbying for it in their own interest.

The solution to this problem is obvious. It is—as I was arguing in my piece—for classical liberals to start practicing in private what they preach in public, by getting mad about injustice and becoming do-gooders and idealists and glad-handers. Mr. Wills's fear that this will turn libertarians into Democrats and Republicans is nonsense. Acting locally in behalf of what we preach globally is merely a formula for making classical liberalism practical and political. It means dragging libertarians out of the box of their adolescent negativism and getting them to practice the arts of citizenship in behalf of their superior concept of political life. Mr. Wills sneers that such notions are too warm and fuzzy for words. I say, That's life.

With respect to Mr. Trainor's plea for the Fully Informed Jury Amendment: While I agree that bad laws should be applied with maximum leniency, surely the main thing to do about such laws is to criticize them and work to repeal them. The effort to create an undefined loop-hole through which a few lucky souls may escape some of those laws' consequences some of the time strikes me as a foolish distraction.

Cultural Conceptions

I read with interest Virginia Postrel's "Uncommon Culture" (May). I recommend a conceptualization of culture that has potential for clarifying public discussions of this issue. It is one proposed by José Ortega y Gasset in *Man and Crisis*: A society's culture is its "repertory of solutions" to the problem of human life.

By this definition, individuals of different races and ethnicities live in the United States, now as always. But the United States has never had, and does not have now, many cultures. The United States is virtually monocultural, and two fundamental elements of that culture are democracy and freedom.

One seldom hears anyone argue that public power should reside other than where it does reside in the United States and in other representative democracies—with the representatives of the people. Further, individual freedom is virtually never challenged directly, except in totalitarian states. But because I also agree with Ortega that "always and everywhere, public power tends to recognize no limits whatsoever," I am alert—as any libertarian is alert—to the ongoing tensions between democracy and freedom in our nation.

Mark Jackson
Palo Alto, CA

I ENJOYED VIRGINIA Postrel's rendition of the slightly mouldy pro-immigration oldie, "America is an Experiment that Works." Unfortunately, it was pegged to a significant misreading of my cover story in the June 22, 1992, *National Review*.

The "experiment" discussed there was not immigration in general but the actual situation caused by the 1965 Immigration Act. Apart from triggering renewed mass immigration after a 40-year hiatus and allowing skill levels to deteriorate precipitously by placing "family reunification" above economic considerations, Washington also in effect choked off immigration from traditional sources in favor of arbitrarily selected Third World countries.

The result, given Americans' currently low fertility rate, is that the U.S. ethnic balance is suddenly shifting—from nearly 90-percent white in 1960 to less than 73-percent white in 1990. Maybe it's uncouth to mention this. But the fact remains that there is no precedent for a polity undergoing such an ethnic transformation in the entire history of the world.

I don't see why libertarians should be complacent about the perverse government intervention that constitutes current immigration policy. And I also think libertarians must now ask themselves if certain common values, and even the absence of ethnic strife, may not, like property rights, be part of the "metamarket" framework required by a functioning free market. Before it's too late.

They might find it helpful to know that Milton Friedman, in part of my cover story uncited by Postrel, says baldly that there are cultural prerequisites for capitalism.

Peter Brimelow
New York, NY

Ms. Postrel replies: I thank Mr. Jackson for his insight, which I believe is essentially true. Indeed, the purpose of my essay, including its discussion of America's many "subcultures," was to explore the

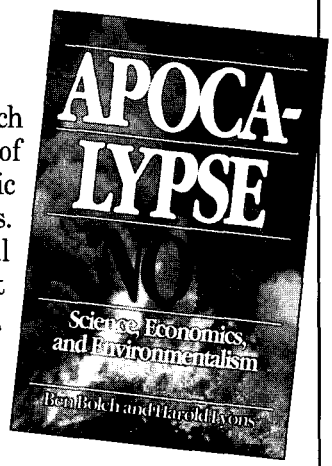
nature of the American culture in this broader sense.

In that pursuit, my primary interest in Mr. Brimelow's sprawling *National Review* article was not its general discussion of immigration policy but those portions concerned with defining what it is to be an American. Mr. Brimelow suggests both there and in his letter that the American character is defined *ethnically* and that it is bizarre and dangerous to form a "nation," rather than a mere "polity," out of more than one ethnic group. Confusing culture with ethnicity—and heaping scorn on the notion that America is not just a place or a race but a set of ideas and attitudes—he thus defines authentic Americans not by their values or actions but by their blood. This is nonsense and, though I hate to use the charged term, profoundly un-American.

Having first equated "culture" with "ethnicity," Mr. Brimelow proceeds to equate "ethnicity" with "race." This allows the claim that the current influx of "non-whites" from many nations has changed American ethnicity, and therefore culture, in a way that the earlier influx of Irish, Italians, Scandinavians, Slavs, Japanese, Chinese, and Jews did not. A country settled mostly by Britons, Germans, and Africans survived that transformation with its underlying individualist culture intact; it will surely survive this one. The "mouldy" ideas that sent Tories like Mr. Brimelow fleeing to Canada in the late 18th century will even survive the influx of talented but wrong-headed British writers and editors.

The core of our disagreement appears to be this: Mr. Brimelow declares, along with the left-wing multiculturalists, that American values and culture are inherently white and European, possibly narrowly Anglo-Saxon, not only in their origins but in their application. He finds assimilation unnatural, something that must be forced on people against their will. By contrast, I believe American culture appeals to the universal human longing for self-definition and the pursuit of happiness, a longing that has nothing to do with the color of one's skin or the language of one's ancestors. Mr. Brimelow believes American culture is fragile and unattractive. I believe it is strong and almost irresistible.

What is likely to kill off the human race first? Overpopulation? Global warming? Ozone depletion? Chemicals and insecticides?



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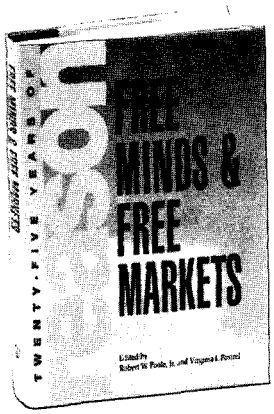

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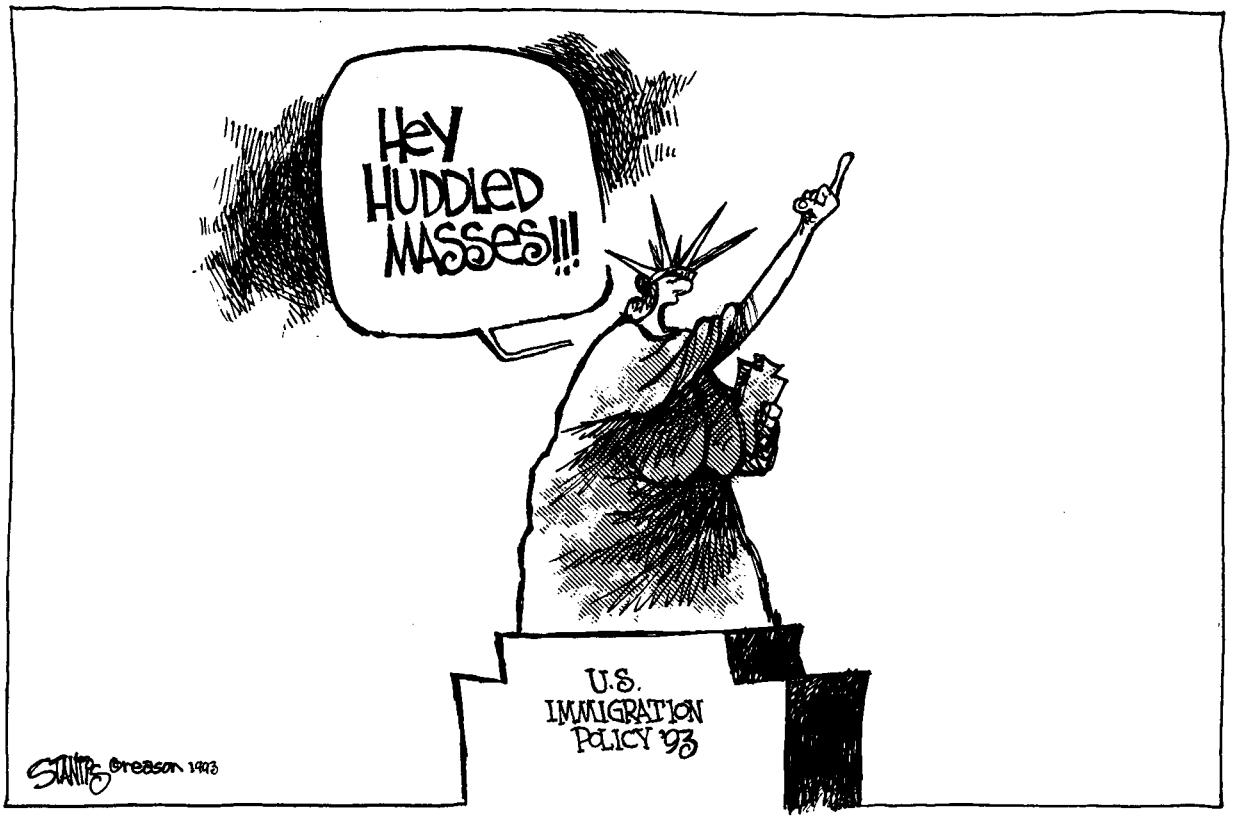

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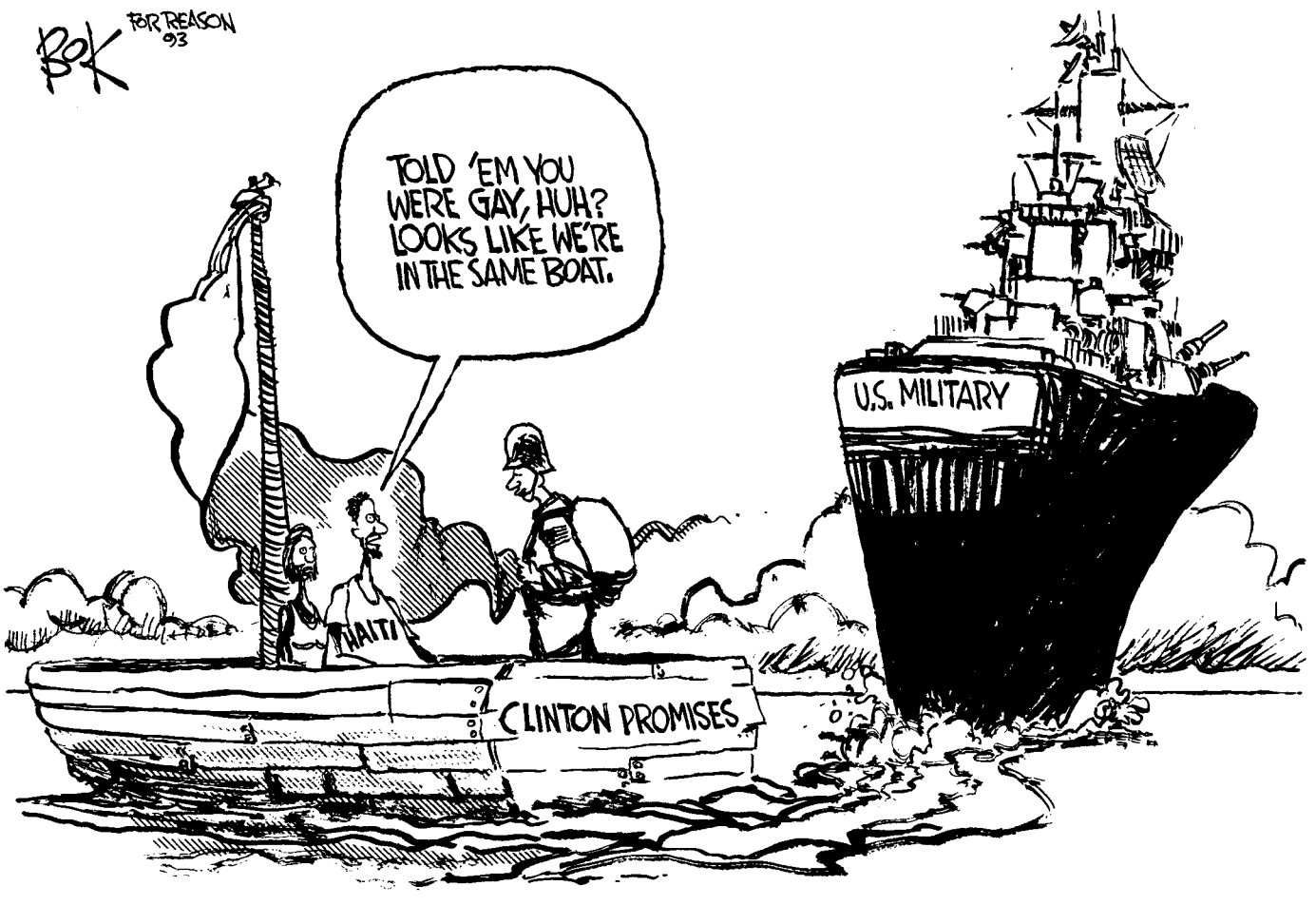

CHIP BOK

The next time you're passing a forged check, pay attention to the teller's name. When two teens gave teller Jenny Ortiz a check for $250 at a Redwood City, California, Wells Fargo bank, she realized that the check belonged to her father. Observing that neither of the youths was old enough to be her father and remembering that Dad's car had been broken into while he was parked near a high school recently, she notified bank security and had them arrested.

We've reported in the past about people nabbed by police because someone mistook them for felons profiled on *America's Most Wanted*. But this is a first. Christopher Cotton was grabbed by Nashville, Tennessee, cops after two women spotted him and thought he looked like a man they'd seen on the TV show. He should: Cotton was the actor who played a suspected arsonist in a reenactment.

Celebrities Should Just Take Their Clothes Off and Shut Up Department. Actress Susan Sarandon had this to say about her political activism: "I feel passionately about feeling passionately. More and more, as things get demeaned and deadened, I feel that political commitment is what can save us all."

In Dallas, Texas, an appellate court has ruled that Ann Marie Lindsay's suit against the Cabaret Royale can go forward. Lindsay, 40, filed an age-discrimination suit against the men's club when, she claims, management refused to promote her from waitress to topless dancer.

Hide the cedar chest. The Environmental Protection Agency has declared that the cedar chips sold in some "green" shops as moth repellents are pesticides and must meet all of the regulatory requirements of such. Until the needed tests are completed, it has banned the sale of cedar as a moth repellent.

HENRY PAYNE

Reacting to complaints from animal-rights activists, the city of Los Angeles has announced that it will no longer trap coyotes—even with harmless "live capture" traps and even if the animal is suspected of having rabies. "I've been waiting for this moment for 23 years," said Lila Brooks, director of the California Wildlife Defenders. No word yet on how animal defenders will protect the cats and dogs routinely preyed upon by coyotes.

In Nevada, the state Senate has approved a measure that would ban barbers and beauticians from wearing frilly lingerie. "Can you even imagine somebody dressed like that washing your hair? It's just one of the most repulsive things I can even imagine," said Sen. Ann O'Connell. The bill will prevent the A Little Off the Top barber shop from opening. But never fear, the women who were planning to work there might be able to find work at the G-String Car Wash, which is located just across the street from the barber shop.

You might think that a group called Citizens Against Sexual Exploitation of Men in California Prisons would have its work cut out for it. Unafraid to tackle sensitive subjects, the group has made its first priority the installation of privacy screens in prison showers so that female guards won't be able to look at prisoners. The women are guilty of "visually raping [prisoners'] nude bodies as they shower," said a spokesman for the group.

For those of you who can't get enough of Bill Clinton, here comes Clinton—The Video Game. 3D Games has developed an interactive game that will allow the player to form policy, manipulate the press, and deal with Congress. Just what every 13-year-old boy wants for Christmas.

Denver City Councilperson Cathy Reynolds thinks she has the answer to violence among teens: make it illegal for them to so much as touch a weapon, even with a parent's permission. Her legislation would forbid parents to take their kids hunting or teach them how to handle a gun. What's more, the law's definition of *weapon* is so broad that it includes BB guns, slingshots, paint guns, water guns, baseball bats, and heavy boots. This should put a damper on those drive-by stompings that have been plaguing Denver.

—Charles Oliver

INFILTRATORS

BY TODD SEAVEY

The former Black Panther Party member started his talk by saying, "All power to the People." The members of the non-hierarchical leftist discussion circle sat in polite silence. But the Panther raised his eyebrows as if someone had committed a faux pas and repeated, slowly, "All *power* to the *People*." The group chanted, "All power to the People."

This wasn't exactly what I had in mind when I first went to visit the Manhattan performance/discussion space ABC No Rio, but that is in no way the fault of the Rio organizers. I was misinformed by anarchists.

It began with a visit to the New York Libertarian Book Club's annual anarchist forum. For readers who are not interested in political theory: The libertarians are the ones who wear ties and have books with Adam Smith on the cover; the anarchists are the ones who wear black and have books with snapping chains and rioting workers on the cover. A gathering of the "anarchist community" was announced for a few weeks later, to be held in the space called ABC No Rio.

Figuring an anarchist mixer was likely to include a lot of punker women who listen to the Sex Pistols, I decided to go. Unfortunately, the anarchists failed to get organized (insert joke here) because the anarchist setting up the event had a conflict with his Industrial Workers of the World meeting.

I heard about the schedule conflict from one of the ABC No Rio managers (not an anarchist herself) when I went there. She explained that the real goal of the anarchist who had planned the gathering—formerly known as Dan Tranquility but now just called Dan—is to turn the skinhead movement in a Red-anarchist direction instead of a fascist-racist direction, which led me to wonder what all the skinheads really have in common anyway. "Is it just the haircuts?" I asked. "There are the boots, too," I was told—and a loyalty to the working class, supposedly.

I decided to come back again sometime, and the next meeting—of the leftist regulars, not anarchists—was a discussion of the Philadelphia radical group MOVE, whose plight resembled the Branch Davidians'. Living in a cult-like group, they claimed they wanted to be left alone with their guns and their rhetoric, but they were eventually bulldozed and later bombed by Philadelphia police. Now some former Black Panthers, among others, are trying to stop the execution of an imprisoned MOVE member.

I commented to the Rio manager that greater respect for property rights and the right to bear arms might have kept the government from attacking either MOVE or the Davidians. I observed that the Black Panthers were always fond of the right to bear arms.

During the discussion, a disheveled character looking a bit like Charles Manson entered—the second (and more convincing) Manson look-alike of the evening. For readers who are not interested in political theory: The difference between libertarians and leftists is that libertarians would probably throw a twitching mystery street person out of a meeting almost as soon as he entered, while the leftists seat him next to the featured speaker.

As the Panther explained that MOVE had dogs and rats in their headquarters but hardly deserved to be bombed for it, the mystery street person said, "They had cows on the roof, so they blew 'em up!" The Panther told the street person that he was getting increasingly impatient because the government sends people to disrupt political meetings in just this way (remember the 1970s FBI operation COWintelPro). The street person spent much of the rest of the meeting with his hands over his mouth, as if restraining a violent case of Tourette's syndrome.

After the discussion, the Rio manager expressed concern to the Panther that there is someone writing for leftist magazines in New York, claiming to be a former Panther, who now supports the radical anti-Castro group Alpha 66. The Rio manager hopes to expose him as a fake Panther, presumably on the grounds that any real Panther would certainly consider Castro an ally in the International Struggle. I countered with the story of writer Karl Hess, supporter in turn of Barry Goldwater, the Panther-affiliated Peace and Freedom Party, and libertarianism. She agreed left and right aren't always the most useful political categories.

That's a point I might get a chance to make again sometime at ABC No Rio. They have a discussion of free trade coming up, and I'm hoping I'll still be welcome after this article.

Todd Seavey is a writer in New York City.

TOM DALY

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Hors d'oeuvres

To whet your appetite, **Reflections** offers the provocative opinions of **Liberty**'s editors. A few selections from our menu:

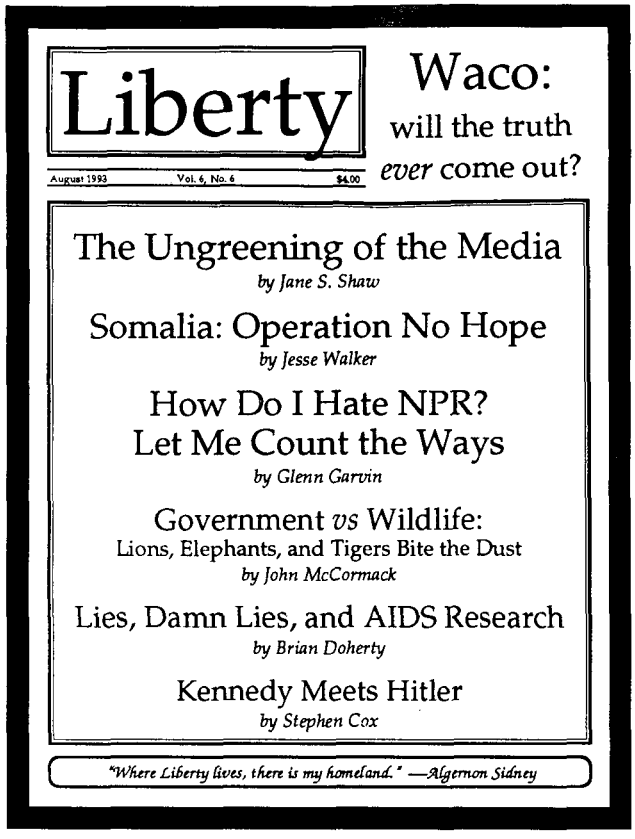
Jane Shaw on the problems of being a libertarian mom;

David Friedman explains why free immigration may result in the end of the welfare state;

Sandy Shaw examines the unintended effect of government attempts to legislate safety;

David Boaz marvels at rich people who don't enjoy their millions and want to keep the middle class from enjoying their thousands;

James S. Robbins suggests that friends of Bill Clinton ought to have knife-proof backs.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Waco: will the truth ever come out?
August 1993 Vol. 6, No. 6 $4.00
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by Jesse Walker
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by John McCormack
Lies, Damn Lies, and AIDS Research
by Brian Doherty
Kennedy Meets Hitler
by Stephen Cox
"Where Liberty lives, there is my homeland." —Algernon Sidney

Entrées

The main course is a variety of controversial and thoughtful essays. A few entrées from our current offering:

Loren E. Lomasky, R.W. Bradford, and *Bill Clinton* debate the holocaust in Waco;

Jane S. Shaw reports that the mainstream media are coming down to earth on environmental issues.

Glenn Garvin spends a week listening to NPR, *and lives to tell about it;*

John Taylor defends ballooning from the hot air of its utilitarian detractors;

John McCormack reports from Africa on how private property protects endangered species;

Jesse Walker explains how U.S. soldiers' effort to feed Somalia's starving children somehow turned into killing children instead.

Potages

To accompany its main features, **Liberty** presents a variety of penetrating reviews. A few examples from our current issue:

Brian Doherty discovers that the truth about AIDS has little to do with HIV;

David Boaz reads *Bartlett's* and wonders what happened to its free-market quotations;

Steve Cox visits a nightmare world where the Nazis triumphed.

Desserts

To top off your feast and satisfy your intellectual sweet-tooth, **Liberty** offers:

The funniest cartoons in the world, from *John Bergstrom* and *Baloo;*

The bizarreries of **Terra Incognita**, snippets from the real world of mindless bureaucrats, shameless journalists, poltroonish politicians, and the credulous *booboisie.*

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TRENDS

Loaded Questions

"Do it for our kids." This is the new slogan of the gun-control movement. (See "Gun Play," July.) And according to a poll released last summer, most Americans find it a persuasive argument for a national ban on handguns.

A Lou Harris telephone survey of 1,250 adults commissioned by the Chicago-based Joyce Foundation found that 52 percent of Americans favor a ban on handgun possession, except with special court approval. *The New York Times* and *Nightline* trumpeted the poll as marking a significant turnaround in public opinion.

But reporters failed to note that the survey artificially inflated support for a handgun ban with a series of skewed queries and tendentious assertions about how guns threaten children. Before respondents were asked about gun control, they heard 19 questions that mentioned children; of these, 12 mentioned or alluded to violence, and 10 explicitly connected guns to the harming of children, including suicide, homicide, and accidents.

One question asked: "Does it concern you or not that (1) when people's homes are broken into and they own a gun, the intruder might take the gun away from the owner and shoot him or her; (2) a common cause of injury or death among family members, especially children, results from their either cleaning or playing around with a gun; (3) people often forget to put the safety latch on guns around the house, and sometimes leave them loaded, which causes many accidental injuries or even death; (4) small guns that many women obtain because they are easier to use are mistaken by children as toy guns which they play with and injure themselves with."

Keating Holland, manager of the polling organization Yankelovich Partners, says the items that preceded the gun-control question may have raised support for a handgun ban by five to seven percentage points, perhaps more—enough to convert what was supposedly a majority in favor of a handgun ban into a plurality against, even without considering potential sampling error.

Support for a ban may also have been boosted by an ambiguity in the question, which said people "given permission by a court of law" would still be permitted to own handguns. Respondents may have taken this to mean that anyone with a good reason could obtain a handgun.

In a 1991 Gallup poll, 43 percent of respondents favored a ban on handgun possession "except by the police and other authorized persons." In a 1993 Luntz-Weber poll commissioned by the National Rifle Association, only 27 percent of those surveyed agreed that "no private individual should be allowed to own a handgun."

—Jacob Sullum

Winners and Losers

In fiscal year 1992 the federal government sucked $1.06 trillion out of taxpayers and $322 billion out of capital markets. It spit a lot of this money back, but its aim wasn't very good. Some states received more in government wages, grants to local and state governments, procurement money, and benefit payments than they shelled out in taxes. Others got less. Comparing federal taxes per capita to federal spending per capita, the Tax Foundation has ranked each state according to how big a return it got.

Federal Taxes and Spending by State (Top Five and Bottom Five)

Overall Rank	State	Taxes per Capita	Taxes as a % of U.S. Avg.	Spending per Capita	Spending as a % of U.S. Avg.
1	New Mexico	$3,025	73%	$6,572	143%
2	Mississippi	$2,563	62%	$5,107	111%
3	North Dakota	$3,312	80%	$5,452	119%
4	West Virginia	$2,887	70%	$4,485	98%
5	Alabama	$3,177	76%	$4,920	107%
46	New Hampshire	$4,558	110%	$3,853	84%
47	Illinois	$4,734	114%	$3,818	83%
48	Connecticut	$6,286	151%	$4,846	105%
49	Delaware	$5,230	126%	$3,897	85%
50	New Jersey	$5,996	144%	$4,405	96%

Sources: Tax Foundation, U.S. Census

Sweet Dreams

MIKE Luckovich
ATLANTA CONSTITUTION
Mark my words- eventually they're gonna find tin cans, leather boots and garden hoses are bad for you...
NEWS!
MARGARINE UNHEALTHY

In 1970 the Food and Drug Administration banned the artificial sweetener cyclamate. For more than a decade, until the arrival of aspartame (NutraSweet), dieters with sweet tooths had to put up with the wrenching aftertaste of saccharin.

The FDA's cyclamate decision was based on a 1969 study in which rats who were fed high doses of the sweetener developed cancer. The World Health Organization, the U.N. Joint Committee on Food Additives, and the National Academy of Sciences have since rejected that study as a fluke because its results could not be reproduced. Yet cyclamate remains illegal.

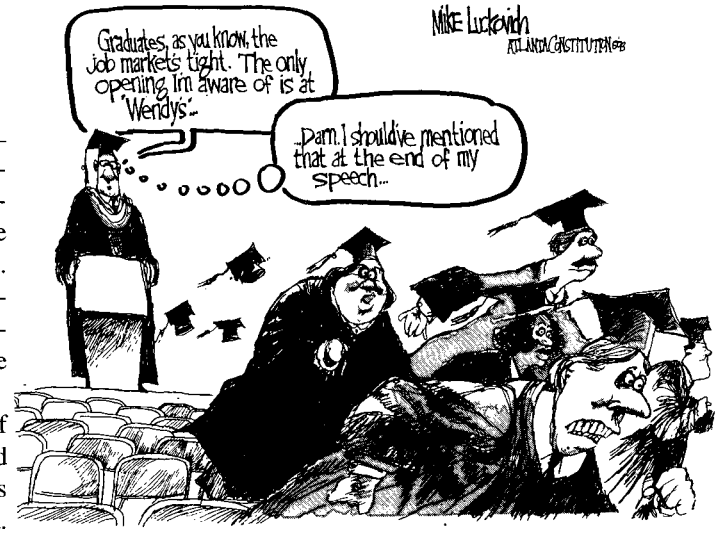
A recent report from the American Council on Science and Health cites the cyclamate episode as an example of the FDA's foot-dragging approach to artificial sweeteners. Not only has the original cyclamate study been discredited, but other fears about the sweetener have also proven ill-founded.

Concerns that the additive works with other substances to cause cancer stemmed from experiments in which chemicals were surgically implanted in animals' organs—a highly artificial procedure that does not correspond to the way that people are exposed to the chemical. Standard tests find that cyclamate is not mutagenic, and it does not raise blood pressure when fed to humans or animals.

At extremely high levels, cyclohexylamine, an occasional metabolic product of cyclamate, causes rats' testicles to shrink. (Cyclamate itself does not.) Based on these studies, researchers calculated an acceptable level for human consumption, dividing the dose at which effects first appear by 100. This level, 11 mg per kg of body weight every day, amounts to a daily dose of about 1.7 pounds for someone weighing 150 pounds.

—Jacob Kramer

Taking a Hike


Graduates, as you know, the job market's tight. The only opening I'm aware of is at Wendy's...
...Darn. I should've mentioned that at the end of my speech...
MIKE Luckovich
ATLANTA CONSTITUTION

During the presidential campaign Bill Clinton promised to raise the minimum wage by $1.00 and index it to inflation. The hike is on hold, but the Clinton administration seems prepared to argue that such a change would be cost-free.

Last winter Secretary of Labor Robert Reich appointed Harvard's Lawrence Katz as his department's chief economist. Katz, along with Princeton economists Alan Kreuger and David Card, has contested the long-held consensus among economists that minimum wages, rather than helping the poorest workers, make it harder for them to find jobs. But according to a recent study by University of Pennsylvania economist David Neumark, Katz's revisionist position is based on flawed research.

In 1992 Katz and Kreuger, examining fast-food restaurants in Texas, found no drop in employment in response to a 1990 increase in the federal minimum wage. Card, in two 1992 studies, found no job loss after the increase in California's minimum wage in the late 1980s or the 1990 increase in the federal minimum wage.

In his paper, which was published by the Employment Policies Institute, Neumark notes that Katz and Kreuger's study examined just one industry in one state over a two-year period in which the minimum wage changed only once. Furthermore, they and Card failed to look at the impact of minimum-wage changes after a year.

The effects of a rise in the minimum wage may not show up right away because employers need time to make personnel decisions and substitute machinery for workers. Failure to take this lag into account makes employment appear to decrease less than it actually did, or even to increase. Finally, these studies did not account for school enrollment, which tends to increase when employment opportunities for young people decline.

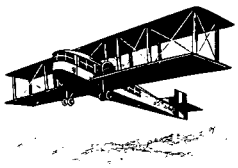
In their study, Neumark and his colleague William Wascher use data from all 50 states over a period of 15 years and account for both lagged effects and enrollment rates. They find that a 10-percent increase in the minimum wage reduces employment among teenagers and young adults (who tend to earn lower wages) by 1 percent to 2 percent.

—Jacob Kramer

MIKE LUCKOVICH

BALANCE SHEET

Assets



Near Miss. Whew! The National Commission to Ensure a Strong, Competitive Airline Industry backs away from reregulation. The panel instead recommends tightening bankruptcy laws so insolvent airlines can't drag down competitors. It also suggests making the Federal Aviation Administration a corporation so it can spend user fees on air-traffic control and other infrastructure without congressional interference.

Draft Demise. Budget cutters in the House defund the Selective Service System. If Senate conferees go along, draft registration will end, as will prosecution of resisters. As the *Los Angeles Times* notes, even "military strategists concede that, as the Persian Gulf War showed two years ago, the United States has enough active and reserve forces to handle current threats."

Bargain Bordeaux. In France, investors consume mass quantities of state-owned firms. First privatized were two banks, an oil company, and a chemical/drug manufacturer. France Telecom, the phone monopoly, may hit the auction block next. To Clintonites, such privatization talk must seem alien.

Bank Shot. The NBA's Portland Trail Blazers get a new, privately financed home. Blazers owner and Microsoft co-founder Paul Allen makes a $46-million down payment on the arena. Prudential Securities Inc. raises the rest by selling $155 million in 27-year notes. Investors will get repaid with money from luxury-box rentals and the Blazers' 30-year lease.

Liabilities

Spending Spree. Want to cut the deficit by $500 billion? Enforce the spending caps in George Bush's 1990 budget deal. In *The Wall Street Journal*, Tom Bethell points out that Bush budgeted $4.1 trillion in spending from 1993 to 1995. Clinton plans to spend $4.6 trillion over that same period—not including flood relief, national service, health care, etc., etc.

Escape Hatch. Congress overhauls the Hatch Act, which prohibited federal employees from engaging in political activities. Off-duty bureaucrats can now run for nonpartisan offices and raise election money. Opponent Bob Dole sounds a chilling alarm: Prosecutors and IRS agents can strong-arm people for campaign contributions.

Great White North? An Ontario Human Rights Commission study says any Ontarian accused of "racism" should be presumed guilty until proven innocent. Whites who make "racist" remarks deserve tougher scrutiny than non-whites who use the same language. And, reports the *Toronto Sun*, "Because [the report says] some racism is hard to detect, the commission [will] develop innovative new investigative techniques."

12-Step Presidency. "You have to realize how brief in the history of man that greed and materialism and individualism have been." So spake New Age management guru Margaret Wheatley to *National Journal*. Wheatley advises Al Gore's "reinventing government" task force. Her *Leadership and the New Science* avers, "Love in organizations, then, is the most potent source of power we have available." Stuart Smalley, call your office.

—Rick Henderson

Light Sentence?

Michigan and Illinois may outlaw smoking at public schools. In California, public-transit employees may be "deputized" so they can enforce no-smoking rules on buses and subways. In Oklahoma, persons caught smoking at nursing homes or day-care centers may go to jail for 30 days.

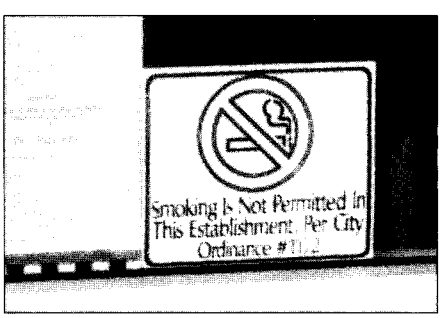
At least 16 states have passed, or are considering, legislation that changes penalties against smoking in public places from civil to criminal offenses. A more ominous trend, however, is the way some of these pending bills expand the definition of "public" space.

In Washington and Massachusetts, for instance, proposed bills would ban smoking in any automobile transporting a passenger younger than 16. And in Utah, a bill forbids smoking on any state-owned property—including inside private cars on state highways.

Tobacco Institute Vice President Thomas Lauria predicts these three bills won't pass. But ordinances that would regulate smoking on private property, he says, are getting more ambitious. As an example, Lauria cites Minnesota anti-smoking activists who are trying to find a sponsor for a bill that would ban smoking in condominium complexes that have "common air space"—say, a shared ventilation system.

In Los Angeles, a ban on smoking in restaurants went into effect on August 2. The ban may be reversed, however. A bill that was recently approved by the state Assembly would preempt local smoking regulations approved after April 1.

—Rick Henderson



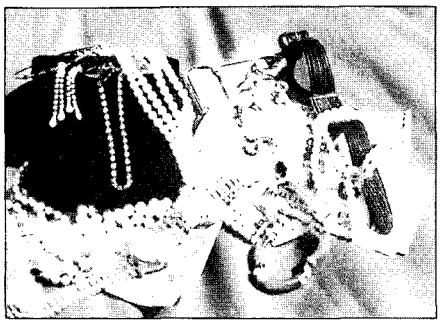
Sign of the times?

Covering Your Assets

When Richard Austin pleaded guilty to one count of possessing cocaine with intent to distribute, the state of South Dakota sentenced him to seven years in prison. Federal authorities also seized his mobile home and auto-body shop in a civil forfeiture action.

Austin appealed, arguing that the forfeiture violated the Excessive Fines Clause of the Eighth Amendment. The government maintained that the Eighth Amendment does not apply to owners in civil forfeiture cases. (See "Ill-Gotten Gains," Aug./Sept.)

On June 28, the U.S. Supreme Court unanimously sided with Austin. Justice Harry Blackmun wrote for the Court that "the question is not, as the United States would have it, whether forfeiture is civil or criminal, but rather whether it is punishment." The Court rejected the idea that civil forfeiture is "remedial," a form of compensation owed to the state. Since forfeiture is a monetary punishment, it is subject to the Excessive Fines Clause. The decision leaves open the possibility that other protections enjoyed by criminal defendants, such as a heavier burden of proof on the prosecution, might also be extended to civil forfeiture cases.



Jewelry and money are subject to seizure if the feds even *suspect* you of a drug crime.

"This decision will end the grossly disproportionate, blatantly inequitable seizures we've seen under the drug war's 'zero-tolerance' doctrine," says Scott Bullock, an attorney with the Institute for Justice, a public-interest law firm in Washington, D.C. "The Court has sent a message to the government that these kinds of seizures will no longer be tolerated."

Congress is also reviewing forfeiture abuses. On June 15, Rep. Henry Hyde (R-Ill.) introduced the Civil Forfeiture Reform Act of 1993. Hyde's bill would shift the burden of proof in civil forfeiture cases back to the government, which would have to prove by "clear and convincing evidence"—instead of the current "preponderance of the evidence"—that property it seeks to confiscate was used in a crime or was purchased with the proceeds of a crime.

The Hyde bill would also give poor defendants the right to a court-appointed attorney, paid for with money from asset-forfeiture funds. It would allow "lack of consent" and "reasonable efforts to prevent illegal activity" as valid defenses against forfeiture, and it would make the government liable for damage to seized property.

The Supreme Court will hear other forfeiture cases next term, including *United States v. James Daniel Good Real Property*. At issue in *Good* is whether the government must meet due-process guarantees under the Fifth Amendment when seizing property.

—Konrad Godleske

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Ambush at

COLIN MULVANY

Ruby Ridge

How government agents set Randy Weaver up and took his family down

by Alan W. Bock

Perhaps it was inevitable that the longest federal trial in Idaho history would be followed by the longest jury deliberation in such a trial—a 20-day marathon that had news people joking about whether the jury planned to put in for retirement benefits. The eight-week trial of Randy Weaver and Kevin Harris grew out of such a bizarre set of circumstances that it's not surprising it took a while for the jurors to sort things out. It probably also took them a while to come to grips with the idea that government agencies could so blatantly engage in entrapment, lying, cover-ups, and the killing of innocent people. As one alternate juror, excused before deliberations were completed, put it: "I felt like a little kid that finds out there is no Santa Claus."

On July 8, 1993, in what *The New York Times* called "a strong rebuke of the Government's use of force during an armed siege," a jury in Boise found Randy Weaver, 45 and almost always described in the media as a "white separatist," and family friend Kevin Harris, 25, not guilty on six of eight counts, including murder of a U.S. marshal, conspiracy to provoke a confrontation with the government, aiding and abetting murder, and harboring a fugitive.

Weaver was found guilty on two minor counts: failure to appear on an earlier firearms charge and violating conditions of bail on the same count. As of this writing, he is still in custody, with sentencing scheduled for September 28. Although the maximum sentence for the two crimes is 15 years, his sentence is likely to be about a year, roughly the amount of time he has already served. Kevin Harris went free the day of the verdict.

Randy Weaver on trial: Unlike in Waco, the government may actually be held responsible for what it did at Ruby Ridge.

The story behind the Weaver/Harris verdict began with government entrapment and continued through 16 months of armed surveillance of Weaver's cabin in the steep, heavily wooded Selkirk Mountains near Naples, about 40 miles south of the Canadian border in the rural "panhandle" region of northern Idaho. It climaxed in a bloody shootout that left three people dead, including Weaver's wife, Vicki, killed by an FBI sniper as she stood in the door of the cabin holding her 10-month-old baby. In the wake of the shootout, federal agents offered shifting and contradictory accounts of the events.

There are several eerie similarities between the Randy Weaver episode and the federal government's deadly confrontation with Branch Davidians near Waco, Texas, last spring. Both involved the use of massive force against people with fringe religious beliefs. Both standoffs were initiated by the Bureau of Alcohol, Tobacco, and Firearms based on technical weapons charges. In both cases the FBI eventually became involved. There are two main differences: Fewer lives were lost in Idaho, and the government may actually be held accountable for what it did there.

We might as well begin with the government's indictment, which portrayed a conspiracy by Randy Weaver, his family, and others "to forcibly resist, oppose, impede, interfere with, intimidate, assault, and/or otherwise cause a violent confrontation with law enforcement authorities." In January 1983, Randy and Vicki Weaver left Iowa, where they had been living, and moved to northern Idaho—perhaps, as the indictment reads, "in their belief and prediction that a violent confrontation would occur with law enforcement officers involving a 'kill zone' surrounding their property," or perhaps, as friends and supporters say, to get away from the rat race and find a place where they could raise their children apart from the hustle, bustle, and immorality of American society.

It has been pretty well established that Randy and Vicki were loosely affiliated with or sympathetic to the Christian Identity movement, which holds, among other off-center beliefs, that the true descendants of the tribes of Israel are the modern nationalities of Europe, that today's Jews are impostors, and that Yahweh has fierce punishment planned for sinful America and its Babylonian Occupational Government. Christian Identity believers claim to live by Old Testament laws, to be the true heirs of Israel. Many or most are white separatists. (Unlike white supremacists, separatists say they simply want to live apart from other races, rather than persecuting or subjugating them.)

Naples may not be the remotest place in Idaho, as some early media reports had it, but it's pretty rural. About 15 miles south is Sandpoint (population: 5,200), a lovely resort community on the shore of the Pend Oreille Lake. About five miles north is Bonner's Ferry (population: 2,000), founded in 1863 as a trapper's outpost, with an economy now based on lumber, farming, mining, and recreation. Fewer than 2,000 people live in the Naples zip code. It's about 10 miles square, but because mountains rise on either side of the valley through which State Highway 95 runs, only an area about two miles by eight miles is inhabited.

A general store and a small sawmill are the only signs of commercial activity. Naples first "boomed" in the 1930s; in the '70s it tolerated an influx of hippies getting back to nature. Many of the residents are retirees. Others are attracted by the beautiful mountains, the low cost of living, the friendly, small-town quality of life, and, as Earl in the general store puts it, "the freedom." It's a place where every other resident, it seems, is a hunter, and most households have guns.

In January 1984, the Weavers bought 20 acres pretty far back in the woods and up in the mountains, on what was called Ruby Ridge. To get to the property, you have to drive about three miles on a decent dirt road off the main drag, then another couple of miles on a much steeper and heavily rutted dirt road. Yet it's only a few minutes from the town store, which in traditional general-store fashion stocks a little bit of almost everything, including classical-music tapes and compact discs. At Ruby Ridge, Randy and Vicki built a cabin on a small, rocky bluff, planted extensive gardens, built a couple of storage sheds, and lived, schooling their children at home. Randy would take occasional odd jobs to pay for things that required cash, but you can make it on relatively little money in the area if you garden and hunt.

TOM SHANAHAN

The Weavers taught their children their unusual religious beliefs, but they weren't particularly active in either Christian Identity or white separatist activities. They went to a few Aryan Nation meetings—there's an active organization around Hayden Lake, about 50 miles south of Naples—and to some Christian Identity summer camps. A sign at the entrance to their driveway reads "Every Knee Shall Bow to Jahshuah Messiah" (a.k.a. Jesus). They weren't active churchgoers.

Around October 1989, Randy Weaver was introduced to "Gus Magisono," an alias for Kenneth Fadley, a paid undercover BATF informant in the Aryan Nation. "Magisono" asked Randy to sell him two shotguns with the barrels sawed off, even showing him where to cut. Randy was reluctant, but "Gus" was persistent and Randy was strapped for cash. Weaver finally sold him two shotguns for $300. Eight months later, a couple of BATF agents approached Weaver and asked him to serve as an informant within the Aryan Nation. They told him they didn't have a warrant, but they did have incriminating conversations on tape. They threatened him with arrest and confiscation of his truck or house if he didn't cooperate. He refused.

In December 1990, Randy Weaver was indicted for manufacturing, possessing, and selling illegal firearms. The difference between legal and illegal in this case was about a quarter inch of barrel per gun and a $200 tax stamp. On January 17, 1991, two BATF agents, posing as a couple having engine trouble with a pickup truck hauling a camper, stopped on the one-lane bridge leading to the Weaver property. Randy and Vicki stopped to help. When Randy looked under the hood, the male agent stuck a .45-caliber pistol to the back of his neck and announced he was under arrest. Other law-enforcement agents piled out of the camper. Vicki Weaver was thrown face down into the snow and mud. Randy was taken into custody and later released on a $10,000 bond. Vicki was not arrested.

Federal agents said they never seriously considered knocking on the door and serving the arrest warrant. Instead, they paid a neighbor to spy on the family, scouted out sniper positions, and placed agents in full camouflage gear around the property.

The trial was originally set for February 19, 1991, then changed to February 20 for the convenience of the BATF. But Probation Officer Karl Richins sent Weaver a letter, dated February 7, instructing him to appear on March 20. Although Assistant U.S. Attorney Ron Howen, who later acted as prosecutor, knew Weaver had been sent an erroneous notification, he appeared before the grand jury on March 14 (six days before the date Richins gave Weaver) and got an indictment for failure to appear on February 20. That set the stage.

There's some question about whether Randy Weaver ever received a notification, even the one giving the wrong trial date. In any case, he apparently decided not to appear, fearing he would be railroaded into prison without an opportunity to defend himself properly, on the basis of false testimony. He spent the next 18 months on his mountain, hardly even venturing outside the cabin. Friends brought food and other supplies for the family, which by August 1992 included Sara, 16, Sammy, 14, Rachel, 10, and a 10-month-old baby, Elisheba.

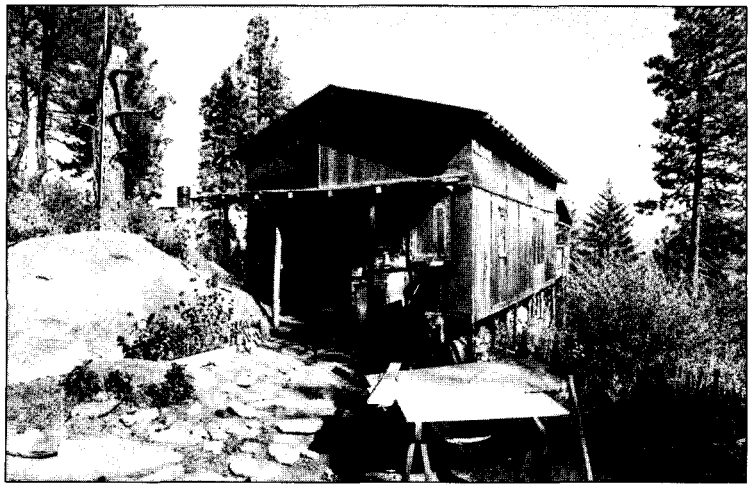
Meanwhile, the feds began an elaborate 16-month surveillance of the cabin and surrounding area. Federal agents testified in court that they never seriously considered simply knocking on the door and serving the arrest warrant, because they feared an armed confrontation. Instead, they paid a neighbor (a relative term in this terrain, but the house was on the only road to the Weaver property) to record the comings and goings of visitors and take down license numbers. They paid for a phone line to be installed at the neighbor's house. They placed agents of the BATF and the U.S. Marshals Service on and around the property, usually in full camouflage gear. Agents went to the cabin in the guise of people interested in an adjacent piece of property that had no source of water and hadn't had a serious prospective buyer in years.

Two concealed video cameras, one solar powered, were set up to monitor the family's activities and visitors. Sniper positions were scouted. The feds discussed various plans, including the use of stun guns and tear gas, cutting the water supply, and kidnapping Sara, who slept in the "birthing house" (a shed several yards from the main cabin) during her menstrual period. About 160 hours of videotape were recorded. Agents rented a whole condominium building in Spokane as a base of operations. Neighbors and friends were questioned. Planes and helicopters were rented for aerial reconnaissance and photography. The habits of the family dogs were studied. Phone taps were ordered for several residences and for the phones at the general store.

Your tax dollars at work. All to capture a man accused of a minor gun offense, a charge that might well have been rejected had it come to trial. Even if Weaver had been found guilty on the weapons charge, he would probably have gotten a shorter sentence than the one he imposed on himself by holing up in his cabin.

The Weavers were aware of being watched, although they may not have known how extensive the operation was. They saw low-flying aircraft, and Vicki even invited a couple of obviously nervous "real estate prospects" into the cabin for coffee one day. Some friends report the family believed they would all be killed eventually, while others say the Weavers expected the feds to get tired of the game. Perhaps their attitude shifted back and forth.

Finally, on August 21, 1992, the ultimate tragedy began. A six-man team from the Special Operations Group of the U.S. Marshals Service came onto the Weavers' property at 4:30 a.m., dressed in full camouflage and ski masks, carrying night vision goggles and silenced 9-mm M-16 machine guns with laser scopes. Three deputy marshals, Lawrence Cooper, William Degan, and Art Roderick, poked around close to the cabin, while the other three, in radio contact, were placed at observation points. The agents testified that they were doing surveillance for a possible future operation. A medical team was on alert at the bottom of the hill.



Vicki and Randy Weaver lived in this cabin they built themselves, schooling their children at home, gardening, and hunting.

It's not easy to picture the Weaver property if you haven't been there. I spent several hours there in July with Jackie Brown, who was one of Vicki Weaver's closest friends and the cabin's caretaker during the trial. The cabin is on a stony outcropping, above most of the surrounding terrain, though a steep mountainside some 200 yards to the north towers over it. The road leading to the driveway is fairly steep; the driveway curves around a huge rock and up to the cabin. Except for a few acres cleared for gardens, the whole area is thickly wooded. In addition to the dirt road, an old logging road encircles much of the property. A trail runs more or less straight down from the cabin about a quarter mile to meet the logging road at a place described in testimony as the "Y" (it looked more like a "T" to me). The trail from the "Y" up toward the cabin is overhung with a canopy of leafy branches. The woods are so thick that you can't see the cabin from the "Y" or vice versa.

After poking around the property for a while, the three deputy marshals stood behind the rock near the driveway, well below the cabin, and started throwing little stones up toward the cabin, to "see if they could get the dogs' attention." Soon Striker, the family's yellow labrador, began following the agents, who circled the property along the logging road to the "Y," where there's a thick stand of trees.

Sammy Weaver and Kevin Harris, apparently believing the dog had sniffed out a deer or some other game (the family was out of meat), followed the dog along the logging road. Randy Weaver went down the straighter, easier trail. It's a fairly standard hunting practice to get a deer surrounded and trapped.

Cooper testified that before the deputy marshals could take cover (he said they feared being shot in the back), they saw Randy coming down the trail and ordered him to stop. Randy yelled at Kevin and Sammy to head back for the cabin, that it was an ambush. He fired a couple of shots in the air and ran toward the cabin.

Cooper and Degan took cover in the stand of trees. The dog and the two boys came to the "Y" and turned up the trail toward the cabin. What happened next is still in dispute.

Cooper told the jury that as the boys passed their concealed spot, Degan crouched on one knee and yelled, "Stop, U.S. Marshal!"—whereupon Kevin fired his .30-06 rifle from the hip and shot Degan in the chest. But Idaho State Police Capt. David Neale testified that shortly after the battle, Roderick told him that he, Roderick, had fired first, wounding and then killing Sammy's dog, Striker. And although the government initially claimed that Degan was killed by the first shot of the battle, seven shells from his gun were found near the deputy marshals' hiding place.

What is certain is that the dog was shot in the rear end (suggesting that he was running away) and then killed by a second shot. Sammy Weaver, who was running toward the cabin, wheeled around, yelled something like "you shot my dog, you son of a bitch," fired a couple of rounds, and started running again. He was shot twice—first wounded in the elbow and then killed by a bullet in the back. Kevin fired his .30-06 at the marshals and believed he had hit Degan, though he insists the marshals started shooting first and he was firing in self-defense after Sammy was hit.

Roderick went for help. His report seems to have given those who weren't there the impression that a massive, continuing gun battle was going on. The authorities seemed to believe that the agents were "pinned down" by gunfire from the cabin, a very unlikely scenario given the terrain. Kevin made it to the cabin; he went back later to confirm that Sammy was dead. Toward evening, Randy and Kevin retrieved Sammy's body, wrapped it as best they could, and put it in the birthing shed near the main cabin. A siege that was to last 11 days was under way.

What happened the next day may have been determined on an airplane taking Richard Rogers, commander of the FBI's Hostage Rescue Team, from Washington, D.C., to Idaho. The law ordinarily permits the use of deadly force by law-enforcement officers only when the officers or others are in imminent danger of death or serious bodily injury. But in writing the "rules of engagement" for the siege to follow, Rogers, who had not yet spoken to anyone who had actually been at the cabin, didn't know about the 14 shots fired by the deputy marshals. He seemed to be under the impression that a fierce two-way gun battle was going on even as he wrote. So he decided that any armed adult outside the Weaver cabin should be subject to "shoot-to-kill" sniping, whether or not that person was menacing anyone.

Perhaps unbeknownst to Rogers, videotape surveillance showed that all members of the family, including the children, routinely carried a weapon when outside. The family owned 14 weapons—

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all legal until a couple of shotguns were sawed off at a government snitch's behest. That may seem like a lot of guns to some, especially city dwellers, but it isn't very unusual in rural areas.

The arrival of the hostage team marked the beginning of a buildup. At least 400 people equipped with sophisticated military hardware, including "humvees," armored personnel carriers, and various aircraft, were eventually deployed in the woods around Randy Weaver's plywood cabin.

The rules of engagement supposedly required a warning before any shots were fired, but that didn't happen. On August 22, the day after the shootout, Randy Weaver left the cabin for the little outbuilding that held his son's body. As he raised his arm to unlatch the door to the shed, he was shot by a sniper posted on the mountainside. The bullet entered his right shoulder area and exited near his armpit. He and Kevin Harris, who was also outside, ran for the cabin. Vicki Weaver stood in the doorway, yelling for the two to hurry, cradling baby Elisheba in her arms. She was unarmed.

As Kevin Harris tumbled into the house, another shot from the sniper went through the glass window and entered Vicki Weaver's temple, killing her instantly. The bullet and fragments of Vicki's skull went on to injure Kevin Harris's arm and torso, breaking a rib and puncturing one of his lungs.

The sniper, Lon Horiuchi, was a West Point graduate armed with state-of-the-art sniping equipment and trained to be accurate to within a quarter inch at 200 yards. He claims he missed Kevin and hit Vicki by accident. But Bo Gritz, the former Green Beret commander who eventually negotiated Randy Weaver's surrender, said that after he became a negotiator the FBI showed him a psychological profile of the family prepared for the Marshals Service before the siege that described Vicki as the "dominant member" of the family. "Vicki was the maternal head of the family," Gritz told the *Spokane Spokesman-Review*. "I believe Vicki was shot purposely by the sniper as a priority target....The profile said, if you get a chance, take Vicki Weaver out."

In any case, Vicki Weaver was dead. Her body remained in the kitchen, covered with a sheet, for a week. Gritz, who thought he remembered Randy Weaver from Weaver's days as a Green Beret, arrived on the scene and offered to try talking Randy out peacefully. At first the FBI ignored him, but eventually they let him approach the cabin. Gritz secured a promise from Wyoming trial lawyer Gerry Spence, whose previous clients had included Imelda Marcos and the family of Karen Silkwood, to represent Weaver if he surrendered peacefully.

On Sunday, August 30, Vicki Weaver's body was removed, and Kevin Harris, whose wound was infected, was taken to a hospital under heavy guard. Around noon the following day, after lengthy discussions with Gritz, Randy Weaver and the three girls came out. Randy was arrested, and his daughters were met by their maternal grandparents, who later took them back to Iowa.

Ron Howen, the assistant U.S. attorney who had been on hand during the siege, secured a 10-count grand-jury indictment of Randy Weaver and Kevin Harris in September. As the trial began in April, U.S. District Judge Edward Lodge told the seven-woman, five-man jury: "This will be one of the most interesting cases you could be asked to sit on as jurors." As Dean Miller, staff writer for the *Spokesman-Review*, wrote later: "If anything, Lodge's remark was an understatement."

The defense attorneys revealed that bullets were removed from the scene, then brought back to be dropped on the ground and photographed, and they made sure jurors saw photos of Randy Weaver's dead dog with track marks on his back.

The first of 54 government witnesses was Deputy U.S. Marshal Lawrence Cooper, who appeared in court wearing the same paramilitary full-camouflage regalia he had worn the day Sammy Weaver and William Degan were killed. A couple of witnesses detailed the confusion about when Randy Weaver's original court date had been scheduled. Then came a long string of witnesses testifying about the Weavers' beliefs. Although no evidence was presented to tie the Weaver family to neo-Nazi activities, the full panoply of right-wing anti-Zionist, anti-Semitic beliefs was trotted before the jury. Spence objected, saying the prosecution was attempting to "demonize" his client, but the prosecution was allowed to spend several days describing conspiracy theories, interlocking groups, and violent activities.

Spence and the other defense attorneys used cross-examination to poke holes in the sometimes shifting stories of government witnesses and to put the government on trial indirectly. They uncovered the embarrassing fact that some bullets had been removed from the scene, then brought back later to be dropped on the ground and photographed. They made sure jurors got a close-up look at photographs of the dead dog, Striker, with tracks showing that tank-like vehicles had run over his lifeless body several times. They got the original snitch to admit that it was difficult to persuade Randy Weaver to sell sawed-off shotguns, that Weaver had little inclination to break the law.

Judge Lodge issued a formal reprimand and imposed a fine on the prosecution after background information on the sniper and his initial reports—ordered to be made available to the defense—was sent by fourth-class mail from Washington, D.C., arriving the day after the sniper had testified. The defense team got a government ballistics expert to admit, after poring over maps and diagrams of the "Y," that the physical evidence supported the defense's version of events as easily as it did the prosecution's.

At one point, with the jury out of the courtroom as attorneys

argued whether a witness should be called, Judge Lodge wondered aloud why Spence was objecting. By Lodge's estimate, about 75 percent of the testimony from government witnesses so far had helped the defense. When the prosecution was finished, the defense declined to call a single witness, saying the government had so manifestly failed to prove its case that no defense was necessary.

On the final Friday of the case, *Spokesman-Review* writer Dean Miller reported, lead prosecutor Ron Howen "was 15 minutes into his response to the defense motion for dismissal when he appeared to lose his train of thought. Up to that time, his left hand was shaking violently and his delivery lacked its characteristic vigor. After a long pause, he sighed loudly, shuffled through his notes and looked over at co-prosecutor Kim Lindquist, who smiled encouragingly back, raising his eyebrows. Howen turned back to his notes and then stopped. 'I'm sorry, judge, I can't continue,' he said, his voice unsteady." He left the courtroom and did not return after a recess. Lindquist had to present the closing argument the following Tuesday.

Trash left behind by federal agents put the finishing touch on the government's bungling of events at Ruby Ridge.

Spence was pleased by the verdict but not satisfied. "A jury today has said that you can't kill somebody just because you wear badges, and then cover up those homicides by prosecuting the innocent," he said. "What are we now going to do about the deaths of Vicki Weaver, a mother who was killed with a baby in her arms, and Sammy Weaver, a boy who was shot in the back? Somebody has to answer for those deaths." Boundary County Prosecutor Randall Day, whose jurisdiction includes Naples, has the option of filing charges against the officials involved in the deaths, but he hasn't disclosed his plans yet. Spence has said he would like to be deputized to prosecute the case himself. A civil suit on behalf of Randy Weaver is a virtual certainty.

If the holocaust in Waco hadn't happened even as the Weaver trial was under way, all this might be an essentially regional story of government bungling with tragic results. But Waco did happen. The lead agency was the BATF, determined to make an arrest of dubious public-safety importance with an overwhelming show of force. The FBI got involved when the confrontation became a siege (Dick Rogers was on the scene at Waco too), and massive amounts of military and paramilitary equipment were deployed against American citizens. The option of a simple arrest was rejected in favor of a military-style attack. Innocent people were killed.

If you talked to some of the self-styled patriots who hung around the Boise courthouse, you would hear all kinds of scary theories. The Weaver operation was just a dress rehearsal for Waco, which was part of a government campaign to shut down, intimidate, or terrorize minority religious groups and political dissenters. Now and then, you'd hear that the real problem was Zionist control of the government.

But the reasons for what happened in Naples and Waco are probably less sinister and more mundane: In their approach to the Weavers and the Branch Davidians, federal law-enforcement officials displayed a mixture of vanity, arrogance, fear, anger, and frustration. An ironworker hanging around the Naples General Store in early July saw it this way: "All these federal agencies—IRS, DEA, BATF, FBI, FDA—have too many agents trained in paramilitary tactics. They get itchy to see if the training really works, so every so often they have to target some poor sap."

Certainly the BATF, which Reagan and Bush-era budget cutters recommended abolishing, seems to be an agency in search of a mission. It began life as the Bureau of Prohibition, but it survived after Prohibition was repealed in 1933. It was reorganized as the Bureau of Alcohol, Tobacco, and Firearms under the Nixon administration. It currently carries out a mix of licensing, regulatory, tax-collection, and law-enforcement functions that could easily be handled by other agencies, if they are necessary at all. It's doubtful that the republic would be any poorer if the BATF ceased to exist.

But the problem goes beyond the BATF, to a mindset that says people with strange ideas cannot be trusted. The notion that religious nuts with guns are always a threat to public safety becomes a self-fulfilling prophecy. The attempt to subdue these supposedly dangerous people provokes the very violence it is intended to prevent.

It need not be so. Sociologist Jim Aho, author of *The Politics of Righteousness: Idaho Christian Patriotism*, recently told a Coeur d'Alene newspaper that "the big myth about these people is they are essentially evil." Through years of research and interviews, Aho found that members of "patriot" groups weren't unusually inclined toward violence, nor were they particularly socially isolated. Contrary to stereotypes, they were about as well educated as their neighbors. Aho said his findings surprised him, but "on the whole, I found these people pretty indistinguishable," apart from their "bizarre and unique" beliefs.

This is not to say that you'd want to have members of the Christian Identity movement over for dinner. But people can have odd ideas, even abhorrent and disturbing ideas, and still live peacefully with their neighbors. It's best that we let them. ■

ALAN W. BOCK

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Healthy Disagreement

The struggle to offer a politically palatable alternative to Hillarycare

By John Hood

For activists on the American "right"—the loose confederation of conservatives, libertarians, and free-market thinkers ranging from economics professors to U.S. senators—the early months of the Bill Clinton presidency have been fun. Jokes at the president's expense are rampant. Speeches and rallies against Clinton programs attract great crowds and enthusiasm. Republican presidential aspirants such as Sens. Phil Gramm and Bob Dole make easy headlines by savaging Clinton. The president's image seems defined by expensive haircuts, political disarray, waffling on issues, wayward White House staffers, an antagonistic press corps, and Rush Limbaugh's one-liners. For Clinton's opposition, it all seems too good to be true.

And, indeed, it is. The president's political operation has been revamped. After a dramatic, even melodramatic, confrontation on Capitol Hill, Congress finally acted on the federal budget with only modest deviation from Clinton's script. And waiting in the wings is Hillary Rodham Clinton's task force on health care.

Few observers believe the plan Mrs. Clinton's group has devised—the "managed competition" approach in which regional health-purchasing cooperatives negotiate on behalf of individuals to get heavily regulated health coverage—will be enacted in recognizable form by the Congress. With its price controls and budget caps, Hillarycare gores too many health-care oxen.

But *something* is likely to pass. Too many politicians have invested too much time and money in the issue to let it disappear. State budgets are bursting at the seams as Medicaid costs skyrocket. Local communities feel the pinch as hospitals struggle under the crushing burden of regulations and paperwork and companies try to afford basic insurance coverage for their workers. Families worry about coverage and the quality of the care they receive.

The battle will be joined in earnest in 1994. At stake is the roughly one-seventh of the nation's economy devoted to the health-care industry, plus the share of economic output needed to pay new taxes to fund reform. Also at stake are the lives and well-being of 250 million Americans. Faced with such a staggering problem, the opposition to Clintonomics and Hillarycare can't afford to assume that the administration's complex and costly plan will collapse of its own weight. Clinton critics need a plan of their own to present to a confused and worried public.

They have two.

Or, rather, there are two main groups advocating their particular versions of markets and consumer choice in health care. One is headed by Stuart Butler, vice president of the Washington-based Heritage Foundation. The other is headed by John Goodman, president of the National Center for Policy Analysis in Dallas.

Butler, a native of Great Britain, has enough first-hand experience with socialized medicine to

fear its even partial imposition here. "My mother still lives under that system," Butler says, referring to the British National Health Service. "And I spend a good deal of my time on the telephone to Britain trying to get her the health care she needs. She is lucky. I still have reasonably good political connections there."

Goodman's first foray into health-care research also involved socialized medicine in Britain. In the late 1970s, he says, "Teddy Kennedy, Joseph Califano, and others were pushing the British model here. We needed to know exactly how the system really worked." Goodman's research has since led to an examination of national health-care systems from Canada to Singapore, and to a detailed understanding of how American hospitals, doctors, insurers, and patients act within the medical marketplace.

John Goodman thinks tax law and government policy should encourage self-insurance through medical savings accounts.

Butler and Goodman share a deep antipathy for socialized medicine, and the similarities between their health-care "factions" don't end there. Both groups are clustered around think tanks and academics, with some support in the insurance and health-care industries. Both have the ear of politicians on Capitol Hill. Both receive favorable notices in the right-leaning press and, to some extent, from strange bedfellows on the other side of the ideological divide. And both Heritage's and Goodman's plans purport to be based on similar principles: Markets can work in health care; consumers must retain choices; and the system of third-party payment is the major source of health-care inflation.

Why, then, are there two warring factions instead of one, unified opposition? Because the devil is, indeed, in the details—and each side sees a touch of evil in the details of the rival plan.

The Heritage Foundation, the E.F. Hutton of the conservative movement (when Heritage talks, conservatives listen), began working on a comprehensive health-care reform plan in the late 1980s. Foundation executives believed that previous efforts to oppose liberal-leaning policies and budget-busting medical entitlements were doomed to eventual failure. They concluded, said Butler in a recent speech, that "conservatives must instead counterattack with proposals that achieve the goals of society, but do so according to conservative principles. If a team plays only defense, the best it can hope for is a scoreless draw. More likely, no matter how good the defense is, it will lose the game."

In a nutshell, Heritage proposes that consumers be able to choose from among a host of health-care options ranging from traditional insurers to health-maintenance organizations (HMOs). Using refundable tax credits that decrease as income grows, Heritage would empower families to choose plans on the basis of coverage, service, and price. As part of the "health-care social contract" thus formed, Butler says, heads of households would be required by law to buy basic health-care coverage "to protect society from citizens who would try to exploit the good nature of ordinary Americans" by free-riding on the system.

The tax deduction for employer-provided health insurance would be phased out, in favor of the family-based tax credit. Families could still choose to join group plans. But by helping people buy insurance directly, rather than relying on employers to provide it, Heritage would solve the "portability" problem, in which employees are trapped in undesirable jobs because they're afraid of losing health coverage.

Butler and health-care analyst Edmund Haislmaier introduced the key elements of the Heritage plan in a 1989 book, *A National Health System for America*. In 1992, Heritage began to tout the Federal Employee Health Benefits Program (FEHBP) as a model for how a national consumer-choice system in health insurance might function. Robert Moffit, deputy director of domestic policy studies at Heritage and a former manager of FEHBP, became one of the foundation's key spokesmen on the issue.

Heritage's embrace of FEHBP—a regulated and flawed government program, according to some critics—nevertheless provided a great "hook" that may well have enhanced the foundation's overall sales pitch on health-care reform. As voter disaffection with elected leaders soared, Heritage could say, "What is available for Congress and its employees should be made available to every American family." This message resonated with the public.

It also attracted curious liberals to Heritage's big tent. No doubt they were following the lead of Michael Kinsley, who praised the Heritage plan in his column for *The New Republic*. Kinsley wrote that it "should have great appeal to principled liberals as well as principled conservatives" because it would guarantee universal access, transfer income

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through the tax system to give the poor resources to buy care, and separate insurance from employment.

But adopting the federal employees' system as a national model—and Maryland's managed-competition model for the states—wasn't just a change of political strategy on Heritage's part. The move reflected some changes in policy as well.

In its initial work, Heritage stressed the need for consumers to make more decisions about spending health dollars. Perhaps the biggest factor contributing to the meteoric rise in total health-care costs is the current system of third-party payment, in which consumers file insurance claims for even routine doctor visits and procedures. Just processing these claims drives costs up, and consumers, insulated from the price of procedures at the point of sale, have little incentive to economize on tests and treatments.

The Heritage Foundation's Stuart Butler wants to empower families to choose among approved insurance plans.

In their initial work, Butler and Haislmaier emphasized this point. They suggested that consumers be able to choose low-cost, high-deductible "catastrophic" health-care plans and pocket the savings from lower insurance premiums to pay directly for most doctor visits.

Also, in the original Heritage plan, insurers were allowed to charge different prices to consumers depending on their health. In other words, insurers could accurately price and manage risk. The Heritage plan helped higher-risk families by increasing the value of their tax credit, but it left the pricing system basically intact.

The FEHBP, however, operates on substantially different principles. Offerings to federal employees must meet minimum standards and regulations; no mere "catastrophic" plans are allowed. And the Heritage proposal itself has grown to include more regulations of coverage. These are designed to make the transition from employer-based insurance to individual-based insurance easier and to make the reform package more politically palatable.

The idea is that once individuals can use tax credits to buy insurance for their own families, employer-provided insurance will quickly unravel. Relatively healthy families will find they can get coverage for less than the average premium at their jobs. As they're left with only high-cost employees to insure, employers will stop offering insurance. Unhealthy people will be stuck paying high premiums themselves. The only question, says Haislmaier, is whether "you have a messy unraveling or a neat, controlled unraveling."

To accomplish the latter, the Heritage plan would limit the price individuals paid for their own coverage to no more than 25 percent of the premium their employer used to pay. In this way, healthy employees can benefit from lower premiums, but employees with pre-existing health conditions won't have to obtain new coverage at substantially higher rates. Since the Heritage plan guarantees renewal of policies once they are issued, this price regulation would remain in place for as long as the employees are insured.

While this regulation will underprice coverage for some individuals, Haislmaier says that the alternative is politically impossible. He says that the Heritage plan is designed to be "purely political"—to accomplish as much as possible in market-oriented reform without dooming the package to failure.

A more troubling question is where to set the "minimum" coverage Heritage would require of all Americans. The scope of the "low-cost" plans in FEHBP is still broader than the insurance many consumers might choose in a truly free market. All FEHBP plans cover kidney dialysis and preventive care, for example.

The Heritage plan lets consumers choose among *approved insurance plans*. It doesn't let them make choices about medical care itself. Indeed, Butler himself discounted the ability of consumers to make informed choices about medical procedures and other care in revealing congressional testimony before the Senate Finance Committee last year. "Let me draw a distinction between two ways in which consumer choice can operate," he said in answer to a senator's question. "One...is that individuals would shop around between doctors, ask for price lists, and so forth. I don't think that is a reality that is ever going to come and I think it mistakes the way consumer choice can and should operate. The other type of consumer choice is...to choose a [health insurance] plan....I tend to feel that the ordinary American can probably do that."

John Goodman believes ordinary Americans can do more than that. He and other economists have drafted a health-care reform based on the notion that individuals and families are capable of shopping around in the medical market-

place and that tax law and government policy should actively encourage self-insurance through medical savings accounts, or Medisave.

Goodman's plan, as proposed in NCPA publications and a book for the Cato Institute (*Patient Power: Solving America's Health Care Crisis*) coauthored by Gerald Musgrave, would still provide funds for families (through refundable tax credits) to buy health care. But it would not require families to purchase any particular amount of insurance. Instead, families could choose a mix of insurance coverage, out-of-pocket payment, and savings in tax-free "Medisave" accounts.

Goodman's plan would require insurers to renew policies even when an insured person develops a serious medical condition, just as life insurers do. But insurers could price initial policies without regulation. And under his regime, employers could continue to pay premiums directly to insurers to provide (presumably) catastrophic insurance for their employees. Or they could simply add the premiums to employee compensation and let individual workers buy their own insurance. In either event, the insurance would be fully portable.

How would the Medisave account work in practice? Patrick Rooney, chairman of Golden Rule Insurance Company in Indianapolis, is already offering Medisave plans even though current federal law does not extend tax deductibility to savings accounts. Here's how Rooney runs the numbers: The average cost of health insurance in the United States is about $4,600 a year for a family. Instead of spending that money to pay for a low-deductible insurance plan, Rooney suggests that the average family could buy a $3,000-deductible policy to cover true medical catastrophes. That would cost, in most communities, about $1,600. The family could deposit the premium savings, $3,000, in the savings account to pay for routine care throughout the year. Unspent funds would accumulate and help pay for long-term care or other needs in the future.

Advocates of Medisave point to health services that already operate mostly on a cash basis, such as optometry. In these sectors, cost increases have lagged well behind the rest of the health-care industry. Other precedents exist for the Medisave approach. Many large companies already maintain flexible spending accounts (FSAs) for their employees under Section 125 of the Internal Revenue Code. These FSAs operate like Medisave accounts—except that FSAs are governed by a "use it or lose it" policy, which destroys the personal incentive to economize and avoid unnecessary procedures.

For the past two years, Dominion Resources Inc., a Richmond, Virginia–based public-utility company, has been experimenting with an approach strikingly similar to Medisave. Dominion employees receive cash rewards if their medical expenses stay below the company health plan's deductible. In this way, employees are given a strong incentive to economize. The company reduces claims and can get a better deal on insurance. As a result of this and other cost-control programs, Dominion's spending on health care has risen by less than 1 percent over the last three years.

"All too often businesses and their employees view health-care insurance as a use-it-or-lose-it commodity," says Kennerly Davis Jr., Dominion's vice president. "We want healthy employees who have incentives to stay healthy and incentives to use their insurance funds wisely." Other companies, such as Wal-Mart, are reportedly considering variants of Medisave or Dominion's program.

Goodman credits Jesse Hixson, a researcher at the American Medical Association, with the concept of Medisave accounts. But Goodman and Musgrave, who now heads Economics America Inc. in Michigan, have expanded the concept to address such problems as indigent care, Medicare and Medicaid, state and local regulations of medicine and hospitals, and liability law. To increase coverage and serve the needs of poor families, their plan would:

- Allow public assistance such as Medicaid to flow directly to local communities, with the proviso that it be spent on indigent care.
- Allow poor families to deposit Medicaid money directly into Medisave accounts. Savings could be spent on routine care or, much later, tapped to pay for long-term care at home or in nursing homes.
- Create deregulatory Medical Enterprise Zones and Medical Enterprise Programs to deliver needed care at lower cost. Rural hospitals are particularly hurt by state regulations regarding service, operations, or personnel. These regulations raise the cost of care significantly.
- Route tax money paid by uninsured individuals directly to hospitals to underwrite indigent care. (By taking their compensation in the form of wages rather than benefits, these people would continue paying taxes that their insured peers would not.) This provision attempts to address the free-rider problem Heritage cites—but without mandating coverage, as Heritage does.

At first glance, it may appear that the Heritage "consumer choice" plan and the Medisave "patient power" plan don't differ all that much. But Heritage endorses more insurance regulation and establishes a basic level of coverage that each household must purchase. Medisave represents less regulation and no mandates.

At first glance, it may appear that the Heritage "consumer choice" plan and the Medisave "patient power" plan don't differ all that much. Both camps have run preliminary numbers to estimate savings and costs, and both claim to reduce health-care costs generally while imposing no new burden on the national treasury. Heritage endorses more insurance regulation and

establishes a basic level of coverage that each household must purchase, while the Medisave approach represents less regulation and no mandates.

The differences are partly in emphasis, partly in design. Heritage scholars say that the Medisave approach is too limited in scope and not sufficiently salable to politicians and interest groups. "A conservative proposal [in health care] must change the political debate," Butler said in a Heritage Foundation forum. "The Heritage plan takes the initiative by dealing with all the major concerns expressed about the current system....To do less than that means that you are continuously on the defensive in the debate over health care." Butler went on to cite voluntary Medisave accounts as an example of a "good idea" but one that doesn't present a real challenge to national health insurance or Clinton's managed competition. And Haislmaier suggests that federal reform should remain "neutral" about whether to spend health-care dollars on insurance or on self-insurance.

That's precisely why Goodman believes the Heritage plan remains flawed. By requiring a minimum health-care package for everyone and interfering excessively with insurance underwriting, the Heritage plan would lock third-party payment for health care firmly in place by discouraging self-insurance. Goodman also believes that by endorsing too much government action, the Heritage plan fails its own political-astuteness test. "The liberals [defending managed competition] can point to their plan and say that 'even the conservative Heritage Foundation says government must intervene' in many areas," he says.

By trumpeting FEHBP or the Maryland plan as models, he charges, Heritage is making it more likely that ostensibly market-oriented health-care reform—perhaps enacted by default in Congress after the Clinton administration's managed competition plan is flayed to death by health-industry lobbyists—will still contain too many regulations to function effectively.

Greg Scanlon, who heads the Council for Affordable Health Insurance, an association of 30 health insurers supporting Medisave, warns that by focusing on consumer choice among insurers but not patient choice among health-care alternatives, proposals such as the Heritage plan run aground. "There is a real sense of elitism out there," he says. "The feeling is that people need to be protected from their own stupidity by professional claims administrators."

Each plan's partisans seem to believe that the prospects for merging the two concepts are dim. But the politicians don't see it that way. Earlier this year, both Butler and Goodman met with Republican senators to map out a strategy for challenging Clinton administration reforms and offering alternatives. While both sides left the table with lingering suspicions, the senators plan to introduce a hybrid version of Medisave accounts and the Heritage tax-credit approach soon.

Earlier this year, both Butler and Goodman met with Republican senators to map out a strategy for challenging Clinton administration reforms and offering alternatives. While both sides left the table with lingering suspicions, the senators plan to introduce a hybrid version of Medisave accounts and the Heritage tax-credit approach soon.

"Republicans are of two schools about what we are for on health care," Texas Sen. Gramm recently told the *Los Angeles Times*. "But we are fairly united about what we are against."

On Capitol Hill, some 200 senators and representatives, from conservative Republicans to liberal Democrats, have endorsed some form of Medisave accounts, while the Heritage model was introduced last year (with a Medisave component) by Sen. Orrin Hatch (R-Utah). This year, Gramm plans to push his version of Medisave (probably including Heritage's idea of mandated coverage for catastrophic insurance) right after the Clinton administration introduces their plan.

The National Association of Health Underwriters and Scanlon's association of small insurers strongly support Medisave, while Physicians Who Care (based in Texas) and other medical and insurance executives have expressed support for the Heritage plan. The complexities and economic aspects of health-care reform may get some attention, but as Larry Neal, Gramm's press secretary, observes, the "key feature in the debate is what it will cost the taxpayer up front."

How will a market-oriented hybrid fare? Recent polls suggest that Americans want health-care reform—but nothing overly revolutionary or costly. Richard Morin, pollster for *The Washington Post,* notes that in the last few months "newspapers have been filled with revisionist stories raising doubts about the health-care crisis." For example, those 37 million uninsured Americans include a lot of college-aged kids or young workers with little immediate need for insurance coverage. After reading about these facts, the public seems less likely to buy whatever reform plan comes down the pike. In one *Post* survey, a solid majority said they would oppose any national health-care plan paid for by a tax hike.

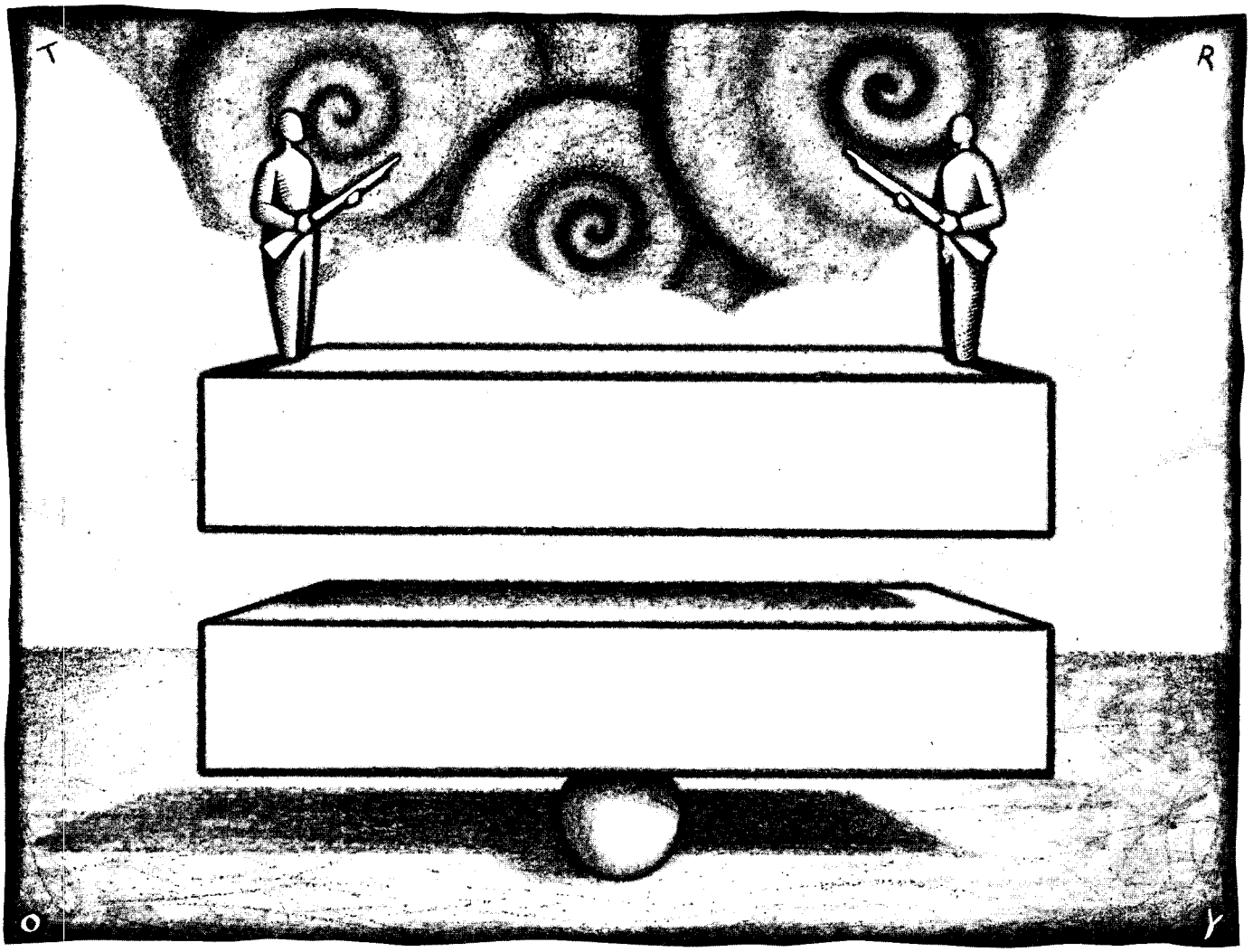
If legislation by Gramm or someone else can keep individual insurance mandates at a bare minimum, making Medisave viable for most consumers, then it will represent a real, politically attractive challenge to Clinton's managed competition—and the partisans at Heritage and the Medisave camp, for all their private grumbling, will claim victory with a smile. Given the dangerous alternatives, they will have good reason to.

Contributing Editor John Hood is vice president of the John Locke Foundation in Raleigh, N.C., and a columnist for N.C. Business Press Syndicate.

Equal Protection

From Bosnia to the Wild West, the simple notion that more weapons mean more violence is shot full of holes.

By Daniel D. Polsby



TROY THOMAS

By last summer, what was briefly the independent republic of Bosnia-Herzegovina had been reduced to a few besieged enclaves and a seat in the United Nations. In the process, perhaps 200,000 Bosnians had been killed, and 2 million had been driven from their homes. Yet Western leaders were still dithering about whether to lift the two-year-old U.N. arms embargo that had prevented the Bosnian Muslims from effectively defending themselves since the civil war began in early 1992.

"With regard to the lifting of the arms embargo," President Clinton said, "the question obviously there is, if you widen the capacity of people to fight, will that help to get a settlement and bring about peace, or will it lead to more bloodshed?" For two years, the conventional wisdom of the world community has been that international diplomacy, abetted by an arms embargo, could revive the stability that Yugoslavia enjoyed in the years when it was ruled by the Croat strongman Tito, who had tens of thousands of his countrymen murdered to keep himself in power.

The current bloodletting in the central Balkans may be a modest affair compared to that of 50 years ago between the communists and proto-Nazi Ustashi storm troopers. But those massacres occurred out of the world's sight. International conscience follows CNN's minicam crews, which are on the scene to record what war is like when waged between soldiers and civilians.

How did the poorly armed Bosnian Muslims, the chief victims of the war, come to be surrounded by well-armed enemies? Things went quite differently in the initially lethal skirmishes between Serbs and Croats in the north. There, after some fighting, Serbia cut a deal, settling for a relatively small share of Croatia. The Croats' military power was nowhere near enough to conquer the Serbs. It was merely enough to make the Serbs appreciate the advantages of peace. Guns did not so much win a war as avert one.

The Bosnian Muslims were not so fortunate. For the most part they were unarmed, and the arms embargo left them helpless against Croat and Serb enemies who wanted their land. Margaret Thatcher, as usual among the first of the world's politicians to discern the obvious, had warned for several months that the embargo spelled disaster for the Muslim people of Bosnia. Until last winter's "ethnic cleansing" proved her point, respectable opinion was very much against her views. Throughout Europe and in the United States, it had been a bipartisan article of faith that the only hope of peace in the Balkans lay in diplomacy aided by an arms embargo.

In the words of David Clark, the British Labour Party's shadow defense minister, "lift[ing] the arms embargo to the Muslims...has always seemed to us rather crazy," like trying to "douse a fire with petrol. It never works." President Bush embraced this premise, and President Clinton remains ambivalent.

The result has been gun control, writ large: a scheme aimed at limiting violence that instead encourages predators to take whatever they want. Both the U.N. arms embargo and domestic gun control are based on the notion that the accumulation of weapons as such tends to encourage violence. The chances for peace and security can thus be enhanced by limiting or reducing the total number of weapons.

This weapons-violence hypothesis has been part of the intellectual furniture of progressive politics for most of this century. It found expression as the fourth of President Wilson's 14 Points and appears in almost the same language in the Covenant of the League of Nations, whose Article Eight provided: "The Members of the League recognize that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations."

As the historian Alfred Zimmern pointed out, "The important word in the first paragraph is 'requires.' Peace, it says...cannot be maintained unless armaments are reduced, or, in telegraphic language: 'armaments mean war.'" The covenant was simply reflecting what was even then a superficial dictum of good-government progressivism. The notion that armaments mean war is "a favorite theme on pulpits as well as on platforms," Zimmern wrote. It is also "a mistake which, if allowed to pass uncontradicted, can do infinite damage to the cause of peace."

If you can grab an island (or a purse) with complete certainty of getting away with it, it doesn't automatically follow that you'll grab it. But your probability of grabbing it is less if you think there's a good chance you'll get killed in the process.

Modern strategic theory rejects the weapons-violence hypothesis, focusing on stability rather than stockpiles. It starts with the proposition that people tend to pursue the course of action that they believe will give them the maximum return. Hence the likelihood of violence depends on how the expected rate of return on violence compares with the alternatives.

If you can grab an island (or a purse) that belongs to someone else with complete certainty of getting away with it at zero cost, it does not automatically follow that you will grab it. But your probability of grabbing it will be greater than if you think you have a significant chance of getting killed in the attempt—especially if you think the current owner makes the same estimate of the odds. More generally, when the expected value of attacking falls to a value equal to or less than the expected value of doing nothing, rational people will do nothing.

In the arena of international politics, notwithstanding the U.N.'s approach to the war in Bosnia, this way of looking at the problems of conflict and its avoidance has long been routine. Yale historian Michael Howard's views represent those of most re-

searchers in this area: "Wars begin with conscious and reasoned decisions based on the calculation, made by both parties, that they can achieve more by going to war than by remaining at peace."

This model is quite versatile. Its predictions will hold whether we are dealing with two neolithic hunters eyeball to eyeball over a deer carcass, or a criminal and a victim, or two modern sovereigns, each with thousands of hydrogen bombs, toe to toe over Western Europe. In each case, the likelihood of violence depends upon how the antagonists view the relative probabilities of getting what they want, losing what they want, and being killed or injured either way. It also depends upon the availability of other options and the value, positive or negative, that each assigns to possible future interaction with the other. The pivotal question, whether for arms control or crime control, remains the expected return on violence, compared with the alternative.

The Cold War gave scholars and diplomats good reason to ponder such matters. The defining condition of postwar superpower competition was the maintenance of equilibrium. Almost as soon as both the Russians and the West had hydrogen bombs and credible delivery systems for them, the United States abandoned the doctrine of "superiority" in favor of the doctrine officially known as "assured capability for mutual destruction" but called by friend and foe alike "mutual assured destruction"—MAD.

Two antagonist nations with first-strike capabilities present the deadliest possible sort of Prisoner's Dilemma. Each is better off striking first, no matter what its adversary decides to do. Why, then, are we still here?

Both sides recognized that the possession of hydrogen-bomb arsenals fundamentally changed the game. The element of surprise—striking an enemy first without warning—had always had its benefits, but never until the atomic age had it been possible to begin and end a war with the same stroke. This so-called first-strike capability is everywhere recognized as a profoundly destabilizing condition. Two antagonist nations with first-strike capabilities represent the deadliest possible sort of Prisoner's Dilemma. Each is better off (and knows its adversary knows each is better off) striking first, no matter what its adversary decides to do. If both sides see things the same way, then the mutual first-strike situation is an OK Corral, where success is defined by which gunslinger is quicker on the draw.

Why, then, are we still here? A deus ex machina, in the form of the second-strike weapon, appeared before either country became confident about the once-and-for-all sufficiency of its nuclear arsenal. By the late 1950s, both the United States and the Soviet Union could see that the day of reckoning was at hand, and in 1958 President Eisenhower and Secretary Khrushchev agreed that high-level negotiators from each side should meet in Geneva to discuss the problem of surprise attack.

As economist and game theorist Thomas Schelling describes it, "the occasion was crucial in identifying what was to become pivotal in arms negotiations for the next decade and, more important, in the design of strategic forces....The idea that both sides could favor each other's strategic-force security was dramatized by Secretary of Defense Robert McNamara's testimony to Congress that he would prefer the Soviet Union to invest in secure, hardened underground missile silos, rather than soft sites above ground, because the latter both invited and threatened preemptive attack while the former would encourage patience in a crisis."

The victim who can strike back at the aggressor from the grave has restabilized the situation by restoring to zero the expected payoff from mounting a preemptive strike. This point is not limited to arms-control negotiations and the currently suspended Cold War.

Consider a less well-known example of violence that should have happened but didn't. Purdue University economist John Umbeck has investigated the formation and initial distribution of property rights in the High Sierra gold fields in the middle of the 19th century. After gold was discovered at Sutter's Mill in 1848, many thousands of prospectors poured into the hills, staked out claims, and removed minerals with a value (in today's money) in the hundreds of millions of dollars. The gold fields comprised an area of some 30,000 square miles in the California mountains. There was no civic infrastructure there at all—no towns, no highways, no lawmen, and, perhaps most significant of all, no official law for them to enforce anyway. The military governor of California had recently nullified by proclamation the Mexican land law that had previously governed the region, without proclaiming any substitute for it, temporary or permanent. Virtually all the '49ers were carrying firearms or kept them handy. Umbeck was struck by an odd fact: There was very little violence.

Another story from the old West makes a similar point. In 1889 the great Oklahoma Land Rush began. Until the late 1880s the United States respected Indian claims to Oklahoma, which meant that white people couldn't legally own land there. Through a process that no one should be proud of, this deal was busted, and a portion of Oklahoma, about 20 percent of its territory at first, was opened to settlement, beginning on a certain day at a certain hour. Oklahoma real estate was valuable stuff, just waiting to be claimed. The people who went in to settle it, like the '49ers, were mostly armed. But according to Washington College historian Robert Day, who has studied the period, they accomplished their objective essentially without violence.

These findings should surprise anyone who believes that "weapons cause violence." Not only were the Oklahomans and '49ers heavily armed, they were poor even by the hard-scrabble standards of their time. They must have been ambitious for wealth,

and they probably felt that they had little to lose. From such a mix of passions and motives and guns, there ought to be one gunfight after another, as always happens in the movies—until one fierce soldier of fortune survives to grab all the gold in California, and all the farms in Oklahoma, for himself. If weapons cause violence, it's strange that things did not work out this way.

Of course, not all frontier tales are of harmony and accord; sometimes armed populations did behave violently, and sometimes they still do. The important point is that sometimes they do and sometimes they don't. The fact that heavily armed people commonly do behave themselves throws down a gauntlet in front of the weapons-violence hypothesis. The theory definitely does not predict that a large, disorganized group of heavily armed men rushing headlong after the same treasure will ever behave in a consistently peaceable manner.

Umbeck offers an intriguing explanation for the low level of violence. He observes that violence is much more likely when there are large perceived differences in the ability of individuals to use force effectively. In the California gold fields and later in the Oklahoma Land Rush, everybody was about equally armed (as Umbeck notes, they didn't call the six-shooter the "equalizer" for nothing). To some extent this sort of equality is a matter of perceptions. But if perceptions tend to track underlying reality in the long run, then in the long run it is a matter of fact as well. A peaceable equilibrium, however tense, tends to prevail in a world where everyone reasonably fears retaliation from, or on behalf of, potential victims.

Why isn't the face-off between individuals with guns—each of whom can decisively preempt retaliation by the other—precisely analogous to that between two thermonuclear superpowers before they have acquired second-strike capabilities? It seems reasonable to suppose that the social structure in which the Oklahomans and '49ers were embedded offered a surrogate for a second strike. Historian Roger McGrath, who studied two now-extinct Gold Rush boom towns, chronicled the activities of "vigilance committees" that punished wrongful violence when the duly constituted authorities failed to do so. These towns turned out to be passably lawful places—even though the police and the courts were notoriously shoddy. Very little violence against women was reported, and there was very little theft, robbery, or burglary—facts for which the official institutions of law enforcement could claim little credit.

McGrath writes: "Rarely were the perpetrators of these types of crimes arrested, and even less often were they convicted.... The citizens themselves, armed with various types of firearms and willing to kill to protect their persons or property, were evidently the most important deterrent to larcenous crime." So a more or less peaceful equilibrium does seem to be compatible with very high levels of armaments, given a second-strike capability or some practical equivalent.

One sees the converse result, an equilibrium of violence and reciprocated violence, in many city neighborhoods where high levels of arms are combined with a weak social structure. Although we are accustomed to reading social disintegration from statistics that tell of high infant mortality, low graduation rates, or the bad condition of the housing stock, what is actually crucial is not that these conditions exist but that they persist, despite significant efforts to get rid of them.

From the viewpoint of strategic theory, social disintegration is no puzzle: When people do not believe that their own or anyone else's rights will be protected or wrongs rebuked, cooperation is the behavior of a sucker. A disintegrated social world simulates a world of strangers.

It has been something of a puzzle for a generation of policy makers why, despite numerous, expensive efforts to fix them, these problems have been so hard to solve. From the viewpoint of strategic theory, however, there is no puzzle. What causes disintegration—the falling apart of things in such a way that they cannot simply be put back together—is a structure of incentives in which cooperation makes no sense.

When people do not believe that their own or anyone else's rights will be protected or wrongs rebuked, cooperation is the behavior of a sucker. In strategic terms, a disintegrated social world simulates a world of strangers. Dealings between strangers are precarious because a person cannot reasonably expect that cooperation will be reciprocated. In a world of strangers, self-interest is all on the side of selfish non-cooperation—vandalizing property, not flushing toilets after using them, cheating in transactions.

What all this suggests is that arms per se are not the issue, a conclusion that has obvious relevance to the gun-control debate. Gun-control laws usually aim to reduce the absolute number of firearms in circulation, but this is not at all important to the violence rate. What is important is the existence of a robust equilibrium between lawful and unlawful force—a second-strike weapon or some equivalent to make preemptive aggression seem a zero-return proposition.

In theory, one way of achieving such an equilibrium would be simply to hire more police officers. But in practice there is no reasonable prospect of hiring nearly enough police officers to serve as an adequate second-strike surrogate in any American city. Do the math. Each new police officer adds about $60,000 per year to a city's payroll costs. If each officer works 2,000 duty hours per year, it will cost a quarter of a million dollars just to add a single additional officer to each shift. No serious student of public administration believes it is feasible to address existing shortfalls in security services this way.

It is always possible, however, to make a bad situation worse. Gun-control laws discourage a private alternative to hiring more police officers by making it harder for the average citizen to obtain a firearm. Indeed, gun control has a disproportionate impact on people who want firearms for legitimate reasons. Both potential victims and criminals seek guns for essentially the same purpose—to get tactical dominance in a confrontation with another person. But criminals know for certain that they'll need their guns, because they *plan* to have hostile interactions with other people. Law-abiding people, on the other hand, will need their guns only if confronted with a situation in which threatening to use lethal force is both legal and feasible.

So even if the good guys and the bad guys each assign identical values to dominating a hostile encounter, bad guys will still value guns more, because on average they will be more certain of having such encounters. So there is some wisdom to the old NRA slogan, "If guns are outlawed, only outlaws will have guns." Gun control tends to put potential victims at a disadvantage relative to criminals.

This will remain true as long as guns are available in significant numbers. Whatever the obstacles to gun ownership, criminals will have a stronger incentive to overcome them. But what if guns were eliminated completely, or nearly so? A society with no guns to speak of might possibly be safer and less violent than the one in which we live. A different sort of equilibrium might prevail—the equilibrium of doves rather than the equilibrium of hawks. This dream may or may not appeal to you. The crucial point is that it's not likely to be realized. It would require the government to confiscate some 200 million privately owned firearms *and* prevent future production or smuggling.

Armed citizens should be considered auxiliary peace officers, not vigilantes, for there is no reason to believe they will act beyond the law. They are simply individuals acting under legal sanction but on their own initiative to defend important interests that court officers and police cannot protect.

In the real world, security would be enhanced by encouraging the distribution of more arms rather than less. Certain categories of city dwellers have a very low statistical probability of engaging in predatory behavior. Social-security pensioners, virtually all adult females with clean criminal and psychiatric records and no history of substance abuse, and most employed men over 40 with similarly clean backgrounds are all essentially invisible in the crime statistics. Any such person who is prepared to learn what is necessary in order to handle a sidearm safely and appropriately ought to be encouraged—not merely permitted—to acquire that knowledge and carry the weapon, as police officers do, wherever they go.

Everyone appreciates that the presence of armed police officers in a neighborhood makes it a more secure place than it would be in their absence. Armed civilians of equally good character and with equivalent firearms training would be useful in a similar way, and tens of thousands of such people live and work in every big city in the country. One should think of them as auxiliary peace officers, not vigilantes, for there is no reason to believe that they would act beyond the law. Common law has always allowed self-help when regular legal remedies have been inadequate. Self-help means individuals acting under legal sanction but on their own initiative to defend important interests that court officers and police cannot protect.

Self-help is not "taking the law into your own hands." It *is* the law currently in every state and has been a part of the Western legal tradition practically from biblical times. Any gun-control measure that makes weapons harder to get for good guys than for bad guys certainly complicates self-help to some extent and would likely produce more violence rather than less. Lawmakers would be better advised to consider how to help people organize to defend themselves from violence that the police cannot possibly stop.

The advice offered here runs counter to conventional wisdom, to say the least. But conventional wisdom has generally been wrong about arms policy. It predicted that keeping weapons out of Bosnia would lead to peace. It overestimated the law's ability to get guns away from predators and keep them away and overestimated the ability of the police force to protect disarmed civilians. It has made its futile pursuit of first-best solutions (that is, universal disarmament) the enemy of achievable second-best ones. It has thereby made a mess that will not get better by continuing to wish for a return to some imaginary square one where nobody had a gun or a reason to use one.

While the daydreaming goes on, conditions continue to stagnate or deteriorate in city neighborhoods that went from bad in the '60s to worse in the '70s and have stayed as bad even as legal gun controls have become ever more stringent. Political scientist John DiIulio has persuasively argued that the paramount problem of the inner cities is a crime problem. Where crime and violence flourish, nothing else will. Crime either causes or makes it prohibitively difficult to alleviate almost every other kind of social ill. If the foregoing analysis is right, then the public policy of conventional wisdom has a great deal to answer for in the present situation, which it did much to create. It is time to consider some expedients that have, according to our best understanding of what makes people tick, a reasonable prospect of doing some good rather than making matters worse once again. ■

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1993 Reason Foundation Banquet

On May 21, more than 300 friends of REASON gathered in Los Angeles to mark the magazine's 25th anniversary. Featured guests included Cypress Semiconductor President T. J. Rodgers; writer Peter Huber; former Bush administration deputy Jim Pinkerton; Jirí Schwarz, president of the Liberal Institute in Prague; reporter John Stossel of ABC's *20/20*; and economist and syndicated columnist Walter Williams. Writer Edith Efron, suffering from a broken hip, sent remarks that were read in her absence by Reason Foundation Vice President Lynn Scarlett. Master of Ceremonies Tom Hazlett punctuated the evening with a series of congratulatory messages, both real (from, among others, former President Ronald Reagan) and imagined (Millie the Dog, President Clinton). Below are some selected scenes from the festivities, followed by Charles Murray's keynote address and Virginia Postrel's remarks.

Left: City Council member Joel Wachs presents Virginia Postrel with congratulations on the magazine's 25 years.

Right: Publisher Bob Poole recounts the history of REASON, *displaying the recently published anthology,* Free Minds and Free Markets.

Right: Peter Huber explains how technological advances promise to undermine Big Brother.

Left: T. J. Rodgers warns that the federal government may soon destroy the venture capital industry in the name of competitiveness.

Tom Hazlett visits with former Editor-in-Chief Marty Zupan (right) and her daughter, Kate.

Bob Poole, Caitlin and Jim Pinkerton, and Charles Murray

BILL DOGGETT

Reason Foundation Trustee Manny Klausner with Sally Pipes, president of Pacific Research Institute

Jirí Schwarz suggests that Americans visit Prague to find libertarian ideas in action.

Left: Economist Ben Zycher, of the Milken Institute on Jobs and Capital Formation, talks with Walter Williams.

Right: Reason Foundation Trustee Frank Bond, Cato Institute President Ed Crane, and John Stossel

The Local Angle

Giving meaning to freedom

By Charles Murray

Twenty-five years ago, in May of 1968, where were you? Some days, I was in Northeast Thailand, along the banks of the Mekong River, where in the evenings I would sit on the porch of the little house where I stayed, drinking a beer and watching the flashes of bombs over the mountains that lined the eastern horizon, where the Ho Chi Minh Trail lay. Some days, I was in front of a typewriter in my office in Bangkok, writing the very first research report I ever got paid for, and deciding that there was this very interesting pattern about Thai villagers: They knew more about what they needed than the experts from the government knew.

What a crazy time to begin a libertarian magazine. The Goldwater debacle was just four years past. The only Republicans who could win were the Richard Nixons of the world—the same Richard Nixon who at about the time of his election was saying, "We are all Keynesians now." And to name the magazine REASON?! At a time when *reason* was next to a dirty word, the era of "turn on, tune in, drop out," of good vibrations and karma and LSD and the Greening of America? What a foolish, impossible venture.

And what an extraordinary change we have seen since. To me it is all the more extraordinary as we look at the current administration and see how far

BILL DOGGETT

the orthodoxies of the '60s have fallen. Bill Clinton is the perfect embodiment of his party, just as George Bush was of his. George Bush hated ideas, all of them, and was threatened by them. Bill Clinton LOVES ideas—all of them. Neither man has the least idea of how to answer the question, "How should human beings live?" with anything except mush and platitudes. We do have an answer to that question, and if we cannot ultimately prevail against this kind of opposition, we won't have been trying hard enough.

And that brings me to what I want to talk about tonight: the coming revolution. This is the kind of audience I don't get to talk to very often. Let's face it, there aren't that many audiences like this one. There are probably more wild-eyed libertarian thoughts in this room tonight than in any room since Thomas Jefferson dined alone. In the settings where I usually speak, I consider it my duty to sound as reasonable as possible. But I see no need to do so tonight.

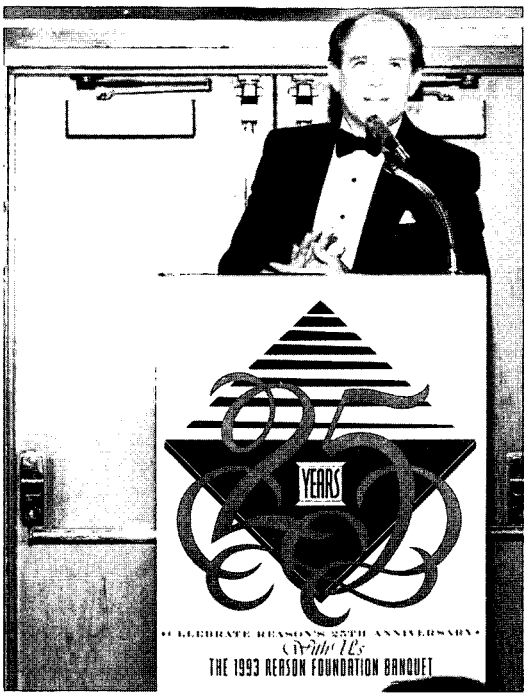
To those of you who were brought here by a date and didn't know what kind of crowd this was going to be, you've probably already gotten the idea. Most of the folks in this room don't just want to cut the capital-gains tax, they want to repeal the 16th Amendment. We don't think government wastes money; we think government *is* a waste of money. Anyway, if you haven't gotten out by this time it's too late. It's time to lock the doors and call the First Los Angeles Committee of Correspondence to order.

The question before the house is: How are we going to get from here to there? How do we move from a society which is a watered-down version of European social democracy and reconvert it to a Jeffersonian republic?

First thought: We aren't going to get there one step at a time. Or here's a better way of putting it: There will be intermediate steps, all right, but the point of them is not to put Jeffersonian democracy in place reform by reform, but rather to build toward the culmination, a broad and revolutionary shift of the conventional wisdom that makes possible a large number of huge reforms all at once.

I have a particular mechanism in mind: the paradigm shift. Many of you are familiar with the idea. It comes from Thomas Kuhn's seminal book, *The Structure of Scientific Revolutions*. Kuhn's insight was that scientific revolutions occur all at once. At any given point in time, there is a reigning paradigm—Newtonian physics, let us say—which works pretty well. But as time goes on, anomalies are discovered. Things that the theory cannot explain. They accumulate. And then, just as the old paradigm is so full of weaknesses that it seems it must collapse, someone comes along—Albert Einstein, let's say—with a new paradigm that resolves the anomalies. The new paradigm rules utterly. There is no half-Newtonian, half-Einsteinian physics. And the shift happens almost instantaneously.

We have witnessed paradigm shifts in American politics in the past. Look at how scrupulously Franklin Roosevelt adhered to the old paradigm in his election campaign of 1932—he ran as a budget balancer, for heaven's sake—and at how drastically the reigning assumptions about the federal government had changed by 1936. Look at the politics of race and poverty at the end of 1963 when Kennedy was assassinated. Imagine saying to someone on November 21, 1963, that within three years it would be taken for granted that of course government should provide financial assistance to people who already had jobs, and of course government should require preferential treatment for blacks. Both things were close to unthinkable by even a good Northern liberal Democrat in November 1963—hard as that is to remember now.



Paradigm shifts happen. And that is the process by which we will reestablish the Jeffersonian republic. But how do we do it? How do you go about creating a revolutionary paradigm shift? There was a book that had an idea about that. It was published about 36 years ago now, written by a woman named Rand.

I think Ayn Rand had something poetically right about how the revolution would come about. In the book, she saw the actual collapse of the economy after the Prime Movers went on strike. The events we are living through are more complicated than that. Government regulates, expropriates, and taxes in every way she envisioned and a few she didn't. But the private market turns out to be so incredibly productive, given even half a chance, that the economy isn't collapsing. The government is collapsing instead, and this relates to Rand's fundamental insight: The revolution would become possible when the system *was seen not to work*. Not just by a few people like us. Not in small ways. Not in temporary ways. The revolution becomes possible when a

broad cross-section of Americans sees that government is, in fact not in theory, the problem. The trick in arriving at that state of affairs is not to convince by logic, but to persuade by showing people reality.

That, I think, is the great ally that we have going for us—reality—and one that we fail to use nearly as effectively as we could. We talk about natural rights. We talk about spontaneous order. We talk about rent seeking. But too often it is all quite arid and doesn't sound like much of anything that an ordinary fellow might want to take up as his cause.

We have to talk less about theory and more about what works and what doesn't. Things that government does tend to be ugly, rude, slovenly, and not work. Things that private groups do tend to be attractive, courteous, tidy, and work.

Let me give you an example of how we ought to be showing people reality. A few months ago, I was on a platform with David Boaz of the Cato Institute, whom many of you know, talking to an audience of the unconverted. David told a story. He had been shopping recently and had come out of the store to find that it was late and he had to walk several blocks back to his car, past darkened and shuttered stores, with hardly anyone around. This is Washington, D.C., we're talking about. And yet suddenly it struck him that he wasn't concerned, wasn't afraid of being jumped by a criminal. Why not? Because he was walking through a mall.

David asked the audience what they would have thought if he had begun by coming out in favor of privatized sidewalks. No doubt there would have been great merriment, much tittering. Silly libertarians. But that's what a mall is. Privatized sidewalks. And it works. That's reality. The streets of Washington, D.C., don't work after dark. That too is reality.

Over the last few decades, as the failures of the government multiplied, and without realizing what they were doing, Americans have built dual systems, operating side by side, and the comparisons are devastating. Private schools compared to public schools. Federal Express compared to the post office. An attendant on any airline, even the ones in Chapter 11, compared to an Amtrak conductor. The courtesy and competence of the voice on the phone when you call a corporation compared to the voice that answers at any government agency. The fries at McDonald's compared to the fries in any government cafeteria.

My buddy Ed Crane came back from the Soviet Union a few years ago, and I asked him what it was like. He said, "Well, imagine an entire country run by the Virginia Department of Motor Vehicles." What we have to do is talk less about theory, and more about the many Departments of Motor Vehicles that afflict us. Say to our friends: Just look around you. Ask yourself what works and what doesn't. What is beautiful and what is ugly. What is courteous and what is rude. What is tidy and what is slovenly. We aren't making this up. This is reality. Things that the government does tend to be ugly, rude, slovenly, and not work. Things that private organizations do when they're trying to make a buck tend to be attractive, courteous, tidy, and work. This is the way the world really is.

That's part of the reality we must help people see. Here is another part that is harder to explain. It is one that libertarians have often had a hard time talking about. It is about human beings living together.

Here is why explaining it is so hard. Suppose I say to my unconverted friends that human lives are richer, fuller, happier when they are lived in freedom.

It is an accurate statement. More profoundly accurate than just about any other single statement I can think of. But when we say that to a great many of our fellow citizens, their eyes glaze over. *Freedom* has become such a debauched word that it doesn't work very well any more. Here is what we have to try to say more clearly: Think about your own life. Think about the last thing that made you feel love, or loyalty, or pride. Think about the last time you looked up and asked, "Where did the time go?" because you had been so fully absorbed, so fully enjoying what you were doing. Think about what is most valuable to *you*, what defines *your* life.

The specific answers to those questions will be as unique as snowflakes—and as similar. They will be about things like family, friends, faith, loyalties, work, avocations, and those in turn will be centered on *people* who are *close*. I usually like to use Edmund Burke's phrase "little platoons" as the way of describing this point, but there is that other philosopher to consider, Richard Daley the Elder, late mayor of Chicago when Chicago was still "the city that works." Remember his remark that "all politics is local"? *Life* is local, lived in concert with other human beings immediately around us. And here comes the part that libertarians sometimes have had trouble with.

The fact is that libertarians have been uniformly the most generous, unselfish people I have ever met.

Libertarians in their daily lives, or at least the ones I know, are intensely social, helpful, and—dare I say the word—compassionate. And yet when libertarians talk about freedom, they tend to make it sound as if they wanted a society of atomistic people each living on his own mountain top with big "Keep Out" signs on the electrified fence. We tend to focus on the ways in which freedom liberates the human spirit to fulfill its individuality, and neglect to remind people that freedom also liberates the human spirit to express its genius for companionship. But that is often the most magical, the most attractive part of freedom. I don't know about you, but when I pick up *Atlas Shrugged*, I usually end up rereading the part set in Galt's Gulch. And if you do too (as I bet many of you do), it's worth thinking about why.

We also need to be able to say to our unconverted friends that free people who are permitted to *live life locally* make good citizens. Let me tell you a story about one of our heroes, Karl Hess. I had picked up Karl for a visit to Antietam, and I wanted to stop at a bakery in the little town near his home. There was a space open right in front of the bakery, which unfortunately had a No Parking sign, but I was just going to hop out, pick up a couple of Danish, and be back in a sec while Karl waited in the car. But as I pulled into this illegal parking spot there was in Karl an almost imperceptible shifting of posture, of affect. I suddenly knew what it was. "I can park down the street," I told him, and as I went on he said quietly that he just sort of liked to obey the rules his neighbors had set. Now this is the guy who told the United States Internal Revenue Service to stuff it. Publicly. May I suggest that no one can question Karl's credentials as a defender of liberty. And may I also suggest that he had it precisely right. Relentlessly hostile to the government in Washington; gently and affectionately loyal to the agreements of his neighbors.

The left talks mournfully about the atomization of society and its alienation, the end of community. It's all the fault of capitalism and multinational corporations, they say. Nonsense. The problem is that the government destroys community. We have community-in-hiding all over this country, wherever people do not have large bureaucracies getting in the way of it.

The little town where I live is like that. There's nothing particularly sweet-natured about the people where I live. In fact, a lot of them are kind of cantankerous. Still, last month there was a barn raising. Not by quaint Amish people who drive horses and buggies but by a bunch of local contractors who provided materials at cost and a bunch of skilled craftsmen and unskilled friends who donated their labor, because a neighbor's barn had burned down. A few months before that, the Ruritan Club had a spaghetti dinner, a fundraiser, for a local child who had gotten cancer. It raised $5,000, from a town of 200 and the surrounding countryside.

This kind of thing happens all the time. Ordinary, rough-hewn, argumentative, self-interested people left to themselves under a rule of common law do very well, thank you, in taking care of themselves. It used to work in big-city neighborhoods as well as small towns. It could again. We have to make people see that part of reality too: Taking care of neighbors in trouble is not theory. That's the way people really do live their lives when they are given the chance.

That's the message we have to hammer home. Don't listen to our theories. Just look at the reality around you.

Ordinary, rough-hewn argumentative, self-interested people left to themselves under a rule of common law do very well in taking care of themselves. It used to work in big-city neighborhoods as well as small towns. And it could again.

In the next few decades, we are going to have a chance to make these points better than ever before. An unprecedented opportunity for a fundamental realignment, a paradigm shift, will open up. And also an unprecedented risk that we will discard the ideal. And I use the pronoun *we*—people like the ones in this room—advisedly. Here is the way I see events playing out:

As many of you know, I am writing a book with Richard Herrnstein about the relationship of IQ to a variety of social issues. A few things stand out from the work we have done. Most of all: In the next few decades, everything is going to come up roses for people like the ones in this room—which is to say, the most talented and prosperous people. You will be glad to know that the market value of intelligence is skyrocketing. Technology is going to work in our behalf, expanding our options and our freedom, putting unprecedented resources at our command, enhancing our ability to do what we enjoy doing.

As the government and the legal system get ever more complex, we are the ones who will be best able to use the complexity to our advantage, exploiting the interstices of a system that will overwhelm people with fewer resources.

Perhaps most importantly, affluent people will become a pivotal political bloc. The affluent have

always been influential, but several trends indicate that their influence is going to mushroom. For one thing, affluent people are getting a lot more numerous all the time. Right now, about 6 percent of American families have incomes higher than $100,000, about double what it was a decade ago (in constant dollars). That proportion is going to continue to grow. These people vote far out of proportion to other income groups. They contribute to political campaigns and influence government far out of proportion to other groups. We are looking at a fairly near-term future in which people who know they do not need the government to run their lives will constitute a large enough political force to move this country pretty much in whatever direction it wants. I know that I have not given you enough data in this brief sketch to convince many of you of that fact; you'll have to read the book. But for the time being, let's stipulate that I am right.

The question becomes, In such a situation, which direction will this political force take us? The too-familiar example is Latin America, where privilege has often turned into a concerted political effort to protect the mansions in the hills from the slums below. The contemporary United States, perhaps especially the city in which we meet, could begin to resemble that image all too closely. But it does not have to be.

Two centuries ago, a convocation of generally affluent and very smart men set out to decide how the nation should be governed, and they took another route. In the years to come, it may well be given to us, or perhaps to the younger members of the audience, to make such choices again. And when it happens, it must be we—we who now stand so far outside the mainstream—who hold the nation to its heritage. Understanding that the pleasures of liberty are not theoretical but real; that liberty is not a good to be enjoyed just by a few, but is the birthright that goes with being human, the tool through which we shape our lives. That freedom is indivisible and cannot truly be enjoyed except in a society of other free people. This was the Founders' cause and their magnificent achievement, which has since been so badly mangled and torn. This is the cause for which we too, once again, may have the opportunity—the obligation—to pledge our lives, our fortunes, and our sacred honor.

Charles Murray, the Bradley Fellow at the American Enterprise Institute, is the author of Losing Ground *and* In Pursuit.

Mind and Matter

The little picture

By Virginia I. Postrel

People often ask us at REASON what we mean by our motto, "free minds and free markets." First of all, it does not mean, as you sometimes hear, that we at REASON are simply "socially liberal and economically conservative." We do not take a Chinese-menu approach to politics, choosing one issue from column A and one from column B.

To the contrary, "free minds and free markets" states that liberty is indivisible. It is about freedom of conscience, the realm of ideas, the intangible mind. And it is about the expression of that mind, the tangible reality, the world of markets, the world of *things*.

It is about concepts, yes, but also about books, and printing plants, and paint brushes, and TV sets. Free minds create art and politics and religion. And they create new restaurants and health spas and medical procedures. They create science and philosophy. And they create airplanes and software and acrylic fingernails.

"Free minds and free markets" recognizes the connection between action and contemplation, between the economic and the personal, between life,

liberty, and property. It cares about the mundane expressions of the human spirit. It recognizes the textures of human life.

We hear a lot about political correctness on university campuses these days. It is indeed a serious threat to freedom of thought, and to the happiness and well-being of lots of students and faculty. That is why so many magazines, including REASON, have devoted so much space to exposing the tyrannies of P.C.

But political correctness is not merely a campus phenomenon, a threat to intellectual life. Political correctness exists any time a faction—whether a majority or a minority—coerces everyone else into conforming to its narrow idea of correct personal behavior. This sort of P.C. is old, common, and quite pervasive. And REASON exists to challenge it.

It is, for example, politically incorrect to take care of children in your home in Culver City, California.

I know this because I met Linda Beasley in 1989. She was a mother with two young children who had quit a teaching job to spend more time with her own kids by opening a licensed family day-care home in her house in Culver City.

It was a homey place, a nurturing, non-institutional environment for preschool kids. There were usually only about a half-dozen kids at any one time, allowing Linda and her two adult helpers to give each child lots of personal attention. Both the children and their parents seemed very happy.

None of Linda's neighbors ever complained about her day-care home. From the street, you couldn't even hear the children playing in the backyard. But because she made the mistake of applying for a city permit, Linda spent three years fighting city planners for the right to take care of those children.

When I interviewed her for REASON, Linda thought the permit was on the way. It wasn't. Eventually, she got tired of fighting and let the city shut her down. In Culver City, getting paid to take care of children is politically incorrect.

It is also politically incorrect to sell cable TV services in South-Central L.A.

For more than 10 years, Tom Hazlett has followed the struggle of Carl and Clinton Galloway to do just that. The two brothers have been trying to get a license to sell cable-TV subscriptions in South Central since 1979. At every turn, they have been blocked by politicians and their friends looking for legal payoffs—all in the name of the public interest and racial preferences. (The Galloways are black, but not, apparently, the right shade for the mayor and City Council.)

The political shenanigans made South-Central the last part of L.A. to get cable service. And, according to the U.S. Supreme Court and a subsequent trial court, the political deal makers violated the First Amendment. Cable TV, it seems, has something to do with free speech.

Now the Galloways have a piece of paper saying the Constitution is on their side. But they still don't have a city license. And the case is still in the courts. A competitive cable franchise is still politically incorrect.

So, as you all know, is selling marijuana. Last fall, in reply to one of our fund-raising appeals, REASON got a letter from a man named Robert Moss in Ashland, Kentucky. He wrote:

"Your publication is one of the few tangible life lines for hope that I can grasp. You see, I am a 42 year old male and married to a wonderful woman. We have three children who I love very much. My desperation is derived from the fact that I was taken away from my wife and children by the U.S. government and sent to prison in another state for a conviction of conspiracy to import and distribute marijuana. Although I have never been in trouble with the law and always have been a productive, tax paying citizen, the government sentenced me to 25 years in prison without the possibility of parole. There was no violence or guns involved in this alleged conspiracy and I can honestly proclaim that I have never broken any of God's Ten Commandments but the government has taken the rest of my life from me. My children are ages 12, 2, and 1. I will never see or feel any of the cherished moments of their childhood, which breaks my heart. More importantly, they will grow up without a father, which hurts me more than anything. Thus my anticipation to possess and read your publication takes on perhaps more meaning to me than to most of your readers.

"I reluctantly must inform you that I can't make a contribution to your magazine. January 15, 1993, my wife and children will be removed from our home thanks to the government's policies, and our financial situation is precarious at best. Please know, however, my lack of financial assistance is

exceeded 100-fold by my heartfelt thanks and appreciation for your dedication to liberty and truth."

That is one of the most politically incorrect letters I have ever seen. It's politically incorrect for people to alter their minds and politically incorrect to provide a market that lets them do it. And, despite the lightness with which elites from the White House on down take both marijuana use and the laws against it, this political incorrectness has very serious consequences. REASON'S job is to remind you of those consequences.

It matters whether you send college dropouts to Vietnam or let them start Microsoft.

These are just a few examples. In many places in America, it is politically incorrect to build a church in a residential neighborhood, to own a pistol, to have oral sex in your own bedroom, to carry paying passengers in an unlicensed jitney, to braid hair for money, to cut down a tree in your own backyard.

In Santa Barbara, it is politically incorrect to build a commercial building without a red-tile roof. In South Carolina, it is politically incorrect to sell liquor in a glass.

It is politically incorrect to hire workers without asking for their papers, to say that aspirin prevents heart attacks, to raise start-up capital without government approval, to listen to Howard Stern.

It may soon be politically incorrect to sell plastic packaging, or to hire the doctor of your choice at the fee of your mutual choosing.

These are all matters of law, not social pressure. You can forfeit good chunks of your life, liberty, and property for violating them.

This politically enforced correctness is what Alexis de Tocqueville described as democratic despotism: "It covers the surface of society with a network of small complicated rules, minute and uniform, through which the most original minds and the most energetic characters cannot penetrate....The will of man is not shattered, but softened, bent, and guided; men are seldom forced to act, but they are constantly restrained from acting. Such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes, and stupefies the people, till each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is the shepherd."

Sophisticated political discourse often considers mentioning small things declassé. Why fret about cable franchises or jitneys when we can discuss "revitalizing the inner cities"? Why defend midwives or Linda Beasley's day-care home when we can discuss "family values"? Why concern yourself with breast implants or aspirin labels when we can discuss "a woman's right to choose"?

REASON exists to say that these things matter.

It matters whether people can buy disposable diapers or plastic shampoo bottles.

It matters whether a father spends a generation in jail for selling marijuana.

It matters whether banks are allowed to introduce ATMs and supermarkets are allowed to have check-out scanners.

It matters whether you send college dropouts to Vietnam or let them start Microsoft.

It matters whether storeowners can have their livelihoods snatched first by riots and then by obstinate planning boards.

It matters whether taxes eat your paycheck and inflation erodes your savings.

It matters whether doctors can try gene therapy to save a "bubble boy."

It matters whether you can choose from more than one long-distance company or buy a discount airplane ticket.

It matters whether venture capitalists or taxicab drivers or hairdressers need political approval to go into business.

It matters whether people can choose their own mates and make their own child-care arrangements.

It matters whether a mind with a new idea can bring that idea to market.

Everyday life matters. It is worth worrying about. Everyday life is what we mean when we talk about freedom—the freedom to live, and work, and make commitments in peace. The freedom to mind our own business.

Big ideas matter, too. It matters whether we see ourselves as individuals with essentially the same makeup or as ethnic groups with unsurmountable differences. It matters whether we believe new knowledge should be pursued for its own sake or only if it serves someone's ideological agenda. It matters whether we tell women they can be strong and independent or whether we tell them they must be weak, dependent victims. REASON writes about these things, too.

But we had a revolution in this country over taxes on tea. We had another over lunch-counter seating arrangements. Ideals do not exist apart from everyday life. Free minds cannot be free without free markets. ■

Virginia I. Postrel is the editor of REASON.

Explosive Book Reveals Truth About "Slick Willie" Clinton

And you can get it FREE!

(Fairfax, VA) Despite Bill Clinton's election as President, and the "extensive" media coverage of the campaign and his early days in office, there are still many questions left unanswered.

Questions like:

- What's the real story behind Clinton's draft dodging? And did powerful people pull strings for him?
- Did the Clinton campaign actively try to circulate disinformation to discredit investigators? How successful were they?
- How many image changes has Clinton been through?
- Was Clinton a peaceful war protestor, or a tool of the Soviet Union and the KGB?
- Is Bill Clinton a drug user—or not?
- Tough on crime? Or liberal bleeding heart?
- Did Clinton use the Governorship of Arkansas to enrich himself and his wife Hillary? Might he do it as President?
- Just how liberal is Hillary Rodham Clinton? And how much control does she have over United States policy?
- What is the real Gennifer Flowers story? Did she have an affair with Clinton? Is there any evidence? Does it have any bearing on Clinton's performance as President?

The answers to these questions and many more are chronicled in this extensively researched and thoroughly documented new book, *"Slick Willie:" Why America Cannot Trust Bill Clinton.*

Written by Floyd G. Brown, *"Slick Willie"* does the investigation that Americans expected from the major media—but never got.

"Slick Willie" is filled with exclusive information unavailable anywhere else. Information that the liberal media, and Clinton's handlers, covered up during the campaign.

Thousands of copies of this best-seller have been sold nationally for $7.95. But under the terms of this introductory program for new subscribers, you can get it absolutely free.

You see, Floyd Brown, the author of *"Slick Willie,"* is also the Editor of a new, information-packed newsletter called *ClintonWatch.*

Every month *ClintonWatch* brings readers new, hidden facts and information about Bill Clinton and his administration. The kind of facts and information that you'll never see in your daily newspaper or on television.

Now, many Americans believe that Clinton was less than perfectly honest in his campaign for President.

And a less-than-honest man as President is, quite literally, a prescription for disaster.

America's "free press" is supposed to protect us from the kind of abuse that Clinton is capable of.

But with the American media fawning over Bill and Hillary, and applauding each new policy initiative, there is precious little objective reporting available.

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Every month the editors of *ClintonWatch* dig out the truth—no matter how deeply buried—about Clinton and his Administration. And they bring you that truth. No holds barred. No stone left unturned.

Look, let's face it, no matter how haughty their motto—be it "All the news that's fit to print," or "World News Tonight," or "The nation's news," the major media are just not telling the whole truth about this President.

If you want that whole truth, there is only one place for you to go—*ClintonWatch.*

And Editor Floyd Brown is so convinced that *ClintonWatch* will give you the kind of information you want, that he has authorized a special deal, just for new subscribers. Here it is:

Use the coupon below (or call the toll-free number with your VISA or MasterCard between 8:30AM and 7:00PM, EDT) and subscribe to *ClintonWatch* at the Special Introductory Price of only $29 (25% off the regular subscription price of $39) for a full, twelve month subscription. You'll receive your own copy of *"Slick Willie:" Why American Cannot Trust Bill Clinton*, absolutely free as their way of saying "Thank you."

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BASE MOTIVES

BY CAROLYN LOCHHEAD

James Courter, chairman of the third and most recent commission on military base closings, was wont to open each meeting of his seven-member panel with words of encouragement, sometimes sounding suspiciously like entreaties. The commission, Courter insisted, was engaged in something just and even noble. It was not, as some would suggest, a heartless Grim Reaper come to snatch away the jobs and lives of innocent, hard-toiling Americans.

OUR PEACE DIVIDEND IS HERE!
AT LAST! PENTAGON SAVINGS FUNNELED TO OUR PET DOMESTIC PROGRAMS!
HAW! WHAT'D WE GET?!
BASE CUTS IN OUR CONGRESSIONAL DISTRICTS.
DEMS.
©1993 SCRIPPS HOWARD
—UNITED FEATURE SYND.

A tangible reward of American triumph at the end of the Cold War, base closings will benefit Americans, Courter repeatedly told the dozens of reporters standing by to beam the bad news back home. "Their preciously earned money," he said, "large gobs of which are appropriated by the federal government, will be used for the essential things, rather than squandered."

The scribblers would usually pause for a rest at these words of the former Republican congressman from New Jersey, whose appointment was one of George Bush's last official acts. Courter always seemed to speak in error-free sentences of multiple dependent clauses that were difficult to grab hold of without a tape recorder. And of course the real news was which base would close and which would stay open, not some amorphous greater social good that flowed from the process.

Perhaps the cynical scribes were right to ignore Courter's standard speech. In fact, large gobs of taxpayers' precious earnings will continue to be squandered, if not on obsolete military bases, then on warmed-over schemes for "defense conversion," "worker retraining," "high-technology infrastructure investment," and other plots of Clintonites and old-fashioned Capitol Hill politicians.

If the base-closing process illustrated anything, it was Congress's complete incapacity to cut spending, no matter how obsolete, redundant, or wasteful. That the commission structure was even in place to handle the job of dismantling America's Cold War military machine was due more to accident than foresight. It was first devised by Texas Republican Rep. Dick Armey as a way to circumvent the political paralysis that prevented Congress from closing anything—from San Francisco's country-clubby Presidio, established by the Spaniards 217 years ago, to a 19th-century Utah fort founded by the U.S. cavalry to guard stagecoach routes against Indian attacks.

Politicians whose bases were threatened blitzed the commission and anyone else who felt obliged to listen with endless faxes, letters, studies, and phone calls. "We did things that Congress institutionally is not capable of doing," Courter said wearily as the commission wrapped up its work. He noted that the panel was so bold as to close an unfinished reserve facility in West Virginia, the place that Democratic Sen. Robert Byrd seems bent on paving over with federal construction projects.

Yet for all the anguished tallies of job losses, the Pentagon estimates that by the year 2000 the three rounds of base closings, in 1988, 1991, and 1993, will save $5.6 billion annually, hardly a blip on Congress's fiscal screen. Indeed, the day President Clinton accepted the independent commission's recommendations, he announced a five-year, $5-billion aid package for militarily stricken communities.

It wasn't more than a day or two after the commission finished voting that the California congressional delegation, led by Democratic Sen. Barbara Boxer, announced its plan for getting its hands on any "defense conversion" money. Robert D. Stuart Jr., the aged commissioner who turned out to be less befuddled and more focused on saving taxpayers' money than any of his fellows, observed that "those who have been least supportive of the defense budget are the ones that have protested the loudest when we have closed their bases."

For years, California politicos had crowed about how much defense money they had managed to retrieve from Washington. They took credit freely and conversely felt their fates personally tied to any base losses. None even bothered to notice that the Navy, having avoided major closures in 1988 and 1991, would take the biggest hits this time around; ergo, California, with its long coastline and its natural concentration of naval installations, would stand to be among the biggest losers.

Nor did the shrieks of woe from politicians pleading for the commission to cut anywhere but in their backyards include any admission that they had anything to do with the decision to close. Looking at the effect of state air-quality regulations on the McClellan Air Force Base in Sacramento, one commission staffer wryly wondered aloud whether the state regulations would require "battery-powered airplanes."

"Diversity" and "day care" concerns, however, were no joking matter for any-

HENRY PAYNE

one. The commission saved a day-care center at the Monterey Presidio Annex, even though Monterey city officials pointed out that the remaining Defense Language Institute was already served by two other government day-care centers.

Commissioner Harry McPherson, a lifelong Democrat, on one afternoon contradicted his insistence just hours earlier that the Defense Department "is not a social-service agency." He convinced the commission to keep open a naval supply center in Oakland, despite closure of the Alameda Naval Air Station it served, because the center is "a prime place for blacks" to get well-paying blue-collar jobs.

One politician convinced the commission to keep open a naval supply center, despite closure of the base it served, because the center is "a prime place for blacks" to get well-paying blue-collar jobs.

McPherson, who had served in the Johnson administration, said he had been moved by the story of retired Adm. Robert Toney. Toney, whom McPherson somewhat mysteriously called "an ebony black," had begun his naval career shining shoes in front of the supply center. He is currently executive director of the Oakland Chamber of Commerce. McPherson seemed happily oblivious to any patronizing connotations. Perhaps one should be grateful that no one found it necessary to refer to "ivory white" generals or "amber yellow" commanders.

A recent study by the Rand Corporation, the Santa Monica think tank that specializes in defense matters, noted that the decline in defense spending since its peak in 1987 has been "modest compared to the declines we saw after the Korean and Vietnam wars," not to mention World War II, when as a matter of course the nation dismantled its military. Nor, said the study, is the economic dislocation associated with the current round of cuts large compared with other recent economic changes. The rise in the value of the dollar between 1980 and 1986, Rand found, caused a drop in U.S. exports equal to 5 percent of gross domestic product, "a shock to the economy ten times larger than what we have seen so far as a consequence of reduced defense spending."

For all the grandstanding, however, one could not help but sympathize with the politicians who felt their futures hinged on keeping defense dollars flowing to their constituents. "A job lost seems to have much more impact on human lives than the two jobs that may be gained further down the road," Courter said. "People know instinctively that that could be the case, but they also know that the two jobs that are created may not mean one for them."

A rousing cheer rose up from a huge hangar-full of blue-collar workers at McClellan when Sacramento Democrats Vic Fazio and Robert Matsui joined California's Republican Gov. Pete Wilson in a celebration at the spared base. There were heartfelt gratitude and pride on both sides that thousands of men and women and their families found their jobs once again secure.

California Sen. Dianne Feinstein, a Democrat who was among the most vigorous of the base defenders, answered with great spirit when asked if perhaps she might be taking her efforts to save Alameda to extremes. "What would you rather have me do?" she asked. "Just roll over and say OK, this is wonderful? I don't believe it is, I don't believe it's right, I don't believe it's necessary, I don't believe it's cost-effective, and I am speaking out and saying that. And that's exactly what I was elected to do, and that is what the people want me to do."

And in that—for all those precious gobs of anonymous taxpayer dollars that may never be returned to create an invisible private-sector job even if every base in the country is closed—she may well be right.

Contributing Editor Carolyn Lochhead is Washington correspondent for the San Francisco Chronicle.

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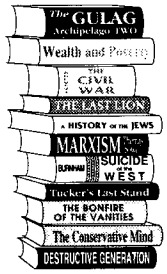

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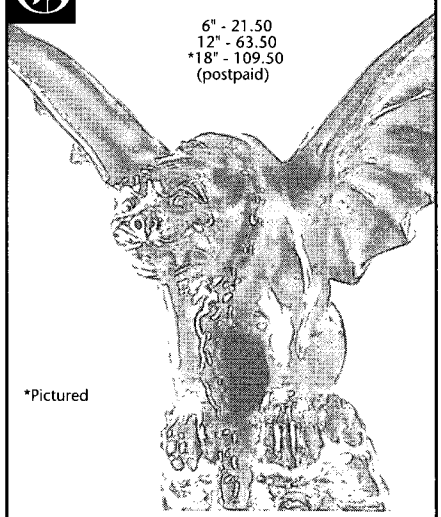

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STILL WAITING

BY JOANNA MIYAKE AND MICHAEL WALKER

It's nice to be included. In Canada we usually sit on the sidelines and observe American angst about large issues such as Vietnam, drugs, and urban decay. It's not that we don't have problems of our own, it's just that (in the absence of intensive media hype) our problems never seem as large or as dramatic. But in health care we finally have found a common concern.

Best of all, America has taken a real interest in our health-care system, an interest we are well aware of because Canadians are exposed to essentially the same media as Americans. The Canadian media have drawn further attention to the American news coverage by running stories about it. One local television station tracked down a number of the Canadians interviewed for the Walter Cronkite documentary *Cross Border Medicine* and stopped just short of asking them about the thrill of being interviewed by an American network news teams.

The attention has been flattering, but unfortunately we were unprepared. Because the Canadian medical system is not a business, statistics on cost, price, and service were not available.

Consider waiting lists, one quirk of the Canadian medical system that attracted a lot of attention but was not well documented. Waiting lists exist in hospital mainframe computers and on surgeon's ledgers, but these data are rarely gathered and studied. Prior to 1989, the last attempt to document the waiting lists for specialists was by the Ontario Medical Association in 1982. Despite public concern, we found evidence of only three other papers studying the waiting-list phenomenon in Canada. One was written in 1967, which gives you an idea of how old the problem is; a second covered only three operations; and the last was a short American study.

Since 1989, the Fraser Institute, an independent Canadian think tank, has been attempting to fill this information void. In 1991 we published a report on the findings of a pilot study in British Columbia. In this pilot project we developed a mail survey that we sent to specialists in 10 areas of practice. We asked them about the average wait and the number of patients waiting for 58 common procedures. Based on their responses, we determined the average wait for each specialist and for each procedure. Then-President George Bush used our estimate of the average wait for coronary-bypass surgery in his speech outlining health-care policy.

The following year we mailed an improved version of this survey to physicians in five provinces (see "Cold Reality," March 1992), and in 1992 we surveyed all 10 Canadian provinces. Our research shows that waiting for treatments and appointments is a significant problem in the Canadian medical system. Waits for medical services differ by region, and these differences are closely associated with per-capita health-care spending. We also found that strikes temporarily increase the length of waits for most surgery.

The Fraser Institute estimates that 177,000 people in Canada waited for hospital admissions in 1992, a lower number than the 234,000 estimated in a 1991 patient survey by the research organization Statistics Canada. But even our conservative figure suggests that almost 0.7 percent of the Canadian population had to wait for hospital services last year. If a similar percentage of the U.S. population were delayed, it would mean that nearly 1.5 million people had to queue up for hospital services. In addition to delays in hospital admission, there are delays at all levels of the Canadian health-care system: for G.P. and specialist appointments, for both basic and sophisticated diagnostic tests, and for admission to nursing homes.

Statistics Canada estimates that more than 1 million Canadians over the age of 15 experienced delays in receiving health-care services in 1991. Our survey, which asked specialists about some 50 operations and which measured waits for hospital admissions and appointments with specialists, indicates that people are waiting a significant amount of time. The longest treatment wait (time from booking an appointment to treatment) was two years for mammoplasty and rhinoplasty surgery in Newfoundland. Most (52 percent) of the procedures we asked about

Average Wait for Treatment by Specialist

(In Weeks)

SPECIALTY	British Columbia	Alberta	Manitoba	Saskatchewan	Ontario	Quebec	New Brunswick	Newfoundland	Nova Scotia	Prince Edward Island	Canada
Plastic Surgery	11.3	9.5	11.2	14.1	7.2	9.7	19.1	73.6	14.4	*	17.8
Gynecology	9.6	7.6	14.7	9.7	5.5	5	26.3	4.7	10	24.9	13.7
Ophthalmology	13.9	8.5	20.5	23.4	12.6	14.9	20.6	4.5	18.9	26.9	15
Otolarynology	7.5	11.1	7.3	4.2	5.7	7	8.9	24.8	18.2	7.7	13.1
General Surgery	8.8	4.9	7	7.5	4	6.1	6	15.5	5.7	11	6.8
Neurosurgery	7.1	7.3	7.3	3.5	6.6	28.4	2.6	*	7.1	*	9
Orthopedics	18.3	12.4	29.2	13.5	11.8	12.8	17.8	12.4	19.3	29.8	20.9
Cardiovascular	4.95	6.1	1.6	4.1	2.4	4.7	4	3.5	6.3	*	6.1
Urology	12.6	3.7	3.2	6.3	3.7	4.7	9.9	14	4.9	7.8	10.7
Internal Medicine	3.7	2.9	3	2.1	1.7	2.7	3.4	2.3	3	3.1	6.4

**Not Available*

Source: The Fraser Institute

had treatment waits of less than two months; 41 percent had waits between two and six months; 6.2 percent had waits between six months and a year; and less than 1 percent had waits over a year.

The table gives the average wait for an appointment with a specialist and for common procedures (measured from the time the specialist scheduled the procedure). Adding the wait for the specialist appointment to the wait for hospital procedures shows that the shortest average wait totaled six weeks. Waits of three to four months were not uncommon. In emergencies, patients may be admitted to the hospital directly, rather than seeing a specialist first. Anecdotal evidence from physicians suggests that patients are sometimes admitted to the hospital as "emergency" cases in an attempt to bypass the queue.

Waits for treatment were not evenly distributed around the country. Since each province is responsible for organizing its own medical system, differences in efficiency may produce differences in waits for treatment. But longer waits in eastern Canada, which is a less economically successful area, suggest that the differences may be tied to funding. Average waits are inversely related to per-capita provincial spending on health care. Ontario, which had the shortest average wait for treatment, spent $313.70 per capita more on health care than the rest of Canada. Provinces such as New Brunswick and Newfoundland, which have lengthy waits, spent much less per capita.

Regional discrepancies are likely to get worse. Since 1987, the federal government has been paying for a consistently smaller share of provincial health-care spending. Eventually health care may be the sole responsibility of provincial governments. The result could be extreme regional differences.

Many Americans have been attracted to the Canadian system of health care because a one-payer system supposedly cuts administrative costs. While it is actually not clear how much the Canadian system spends on administration, what is evident is that a one-payer system is vulnerable to strikes. When the government is a monopoly provider of health-care services, it is also a monopoly employer. Since there is no market to determine the wages of health-care workers, wages are negotiated collectively. The result can be strikes that cause extended shutdowns in the health-care system.

We did our 1990 study less than a month after a province-wide nursing strike in British Columbia. The average times waited per person in this study were one-third higher than those found in the 1991 study. In the second survey, we surveyed Manitoba six months after a province-wide nursing strike. Treatment waits were about 11-percent higher than they were the following year.

These findings indicate that province-wide strikes create backlogs that may take months to dissipate. An August 1991 article in *JAMA*, the journal of the American Medical Association, offered further evidence of this phenomenon. The authors found that waiting lists for cardiovascular surgery in British Columbia doubled during the 1990 nursing strike. This substantial backlog was compounded by a shortage of cardiac-surgery assistants, making the situation critical. The provincial government eventually contracted out for the needed services, and over the next 16 months some 200 patients were sent to Seattle hospitals for cardiovascular surgery. The government was forced into this recourse due to a public outcry, including a man who threatened to sue the government when his wife died while waiting for heart surgery. Americans might want to think twice about a one-payer system in which they have no legal recourse against the one payer.

Lately the American news media have turned their attention away from the Canadian medical system and toward existing U.S. alternatives. True to form, a major Canadian newspaper recently ran an editorial suggesting that HMOs are the solution to Canada's health-care woes.

Joanna Miyake is a research economist at the Fraser Institute in Vancouver. Michael Walker is executive director of the Fraser Institute.

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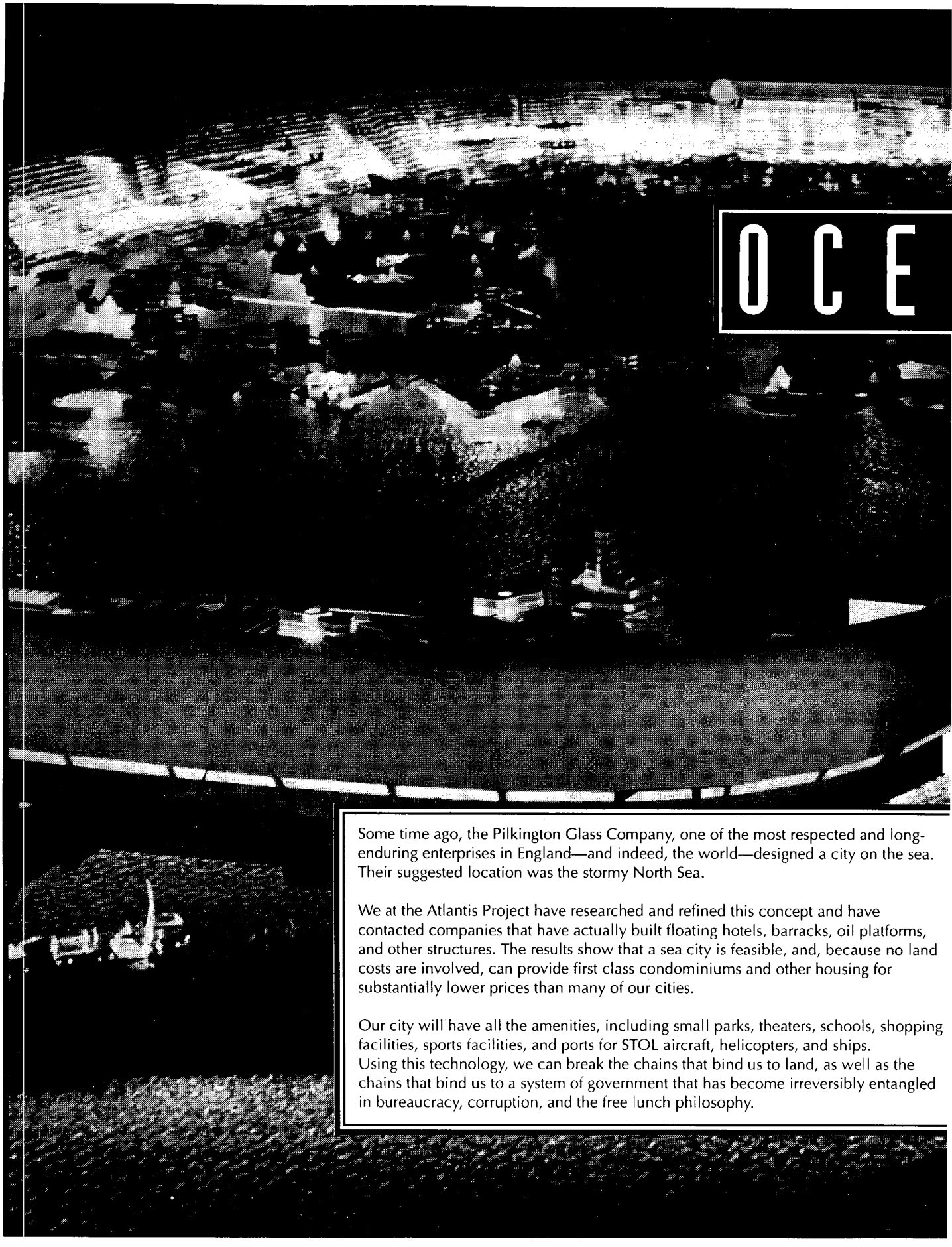

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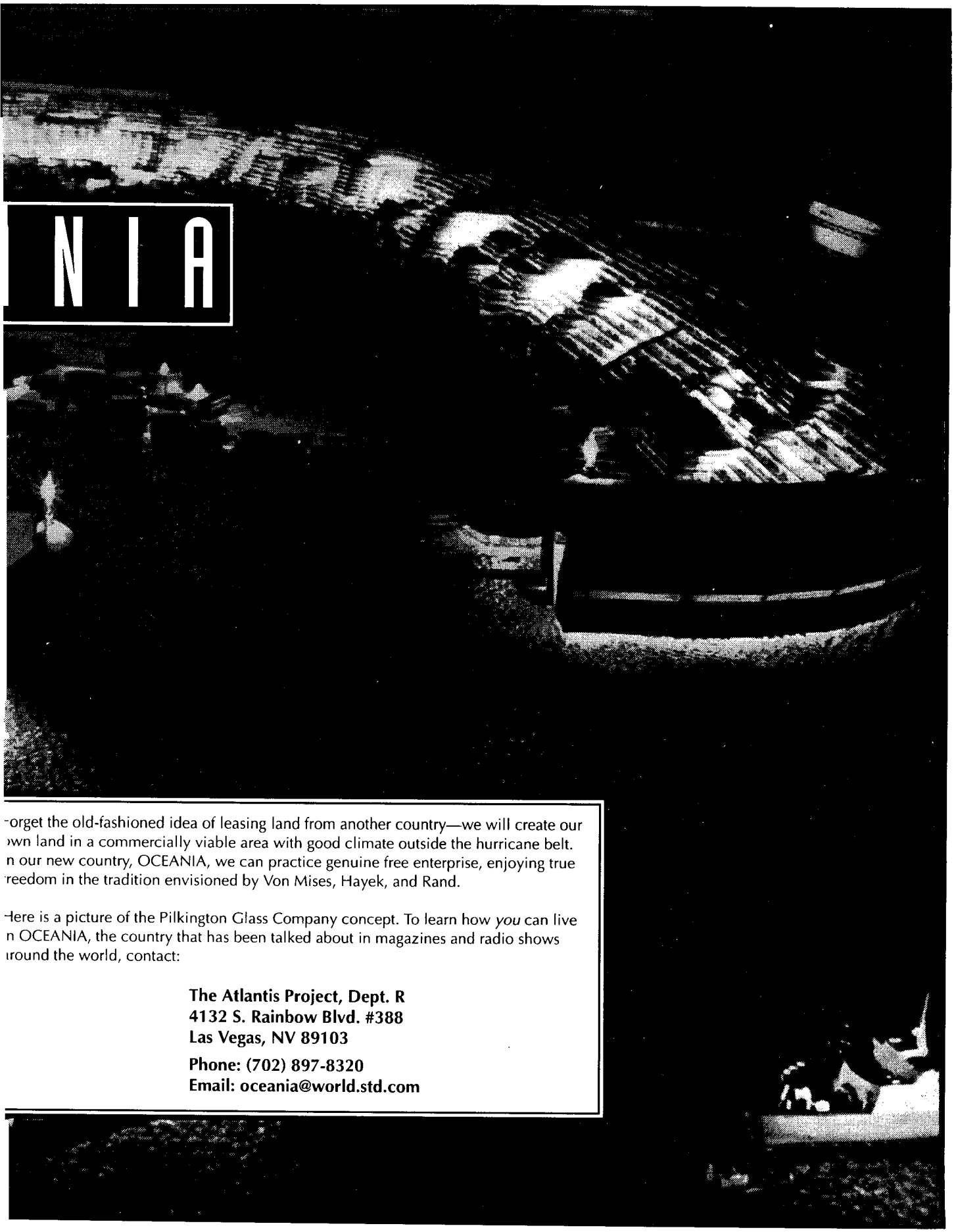

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GEORGE BUSH: EGALITARIAN HERO?

BY JONATHAN MARSHALL

All through the 1992 campaign, Bill Clinton beat up on George Bush for letting the rich get richer and the poor get poorer. The incumbent president who loved racing cigar boats near his Kennebunkport mansion and quail hunting with millionaires in Texas never could shake the political handicap of being born with a silver spoon in his mouth.

In retrospect, however, some liberals may have to put Bush in their pantheon of heroes. New and unpublished data compiled by Census Bureau economist Paul Ryscavage indicate that from 1989 to 1991, the last year for which figures are available, a longstanding trend toward greater income inequality took a surprising U-turn.

Income, for reasons explained recently in these pages (see "Inconspicuous Consumption," July), is not the best measure of true differences in people's well-being, but it certainly is the most convenient yardstick and the one most often whipped out for political debate. Yet critics who decried the widening gap between haves and have-nots in the 1980s have been remarkably silent about the apparent reversal of that trend in the Bush years.

Economists use various arcane formulas to measure the overall level of economic inequality. Each one weights income at different ends of the spectrum somewhat differently. But by practically every measure, the rising trend in income inequality—which began well before President Reagan and the "decade of greed"—reversed itself around 1989. (See graph.)

The middle class, whose death some pundits announced prematurely during the 1980s, made relative gains on other groups after 1989, the census data show. From 1989 to 1991, the middle 60 percent of American households expanded their share of money income from 49.8 percent to 50.2 percent. Their gain came at the expense of the most affluent, not the poor, who held their ground. The top 20 percent of households slumped from 45.6 percent to 45.2 percent of all income. The top 5 percent dropped even faster, from 18.6 percent to 17.9 percent.

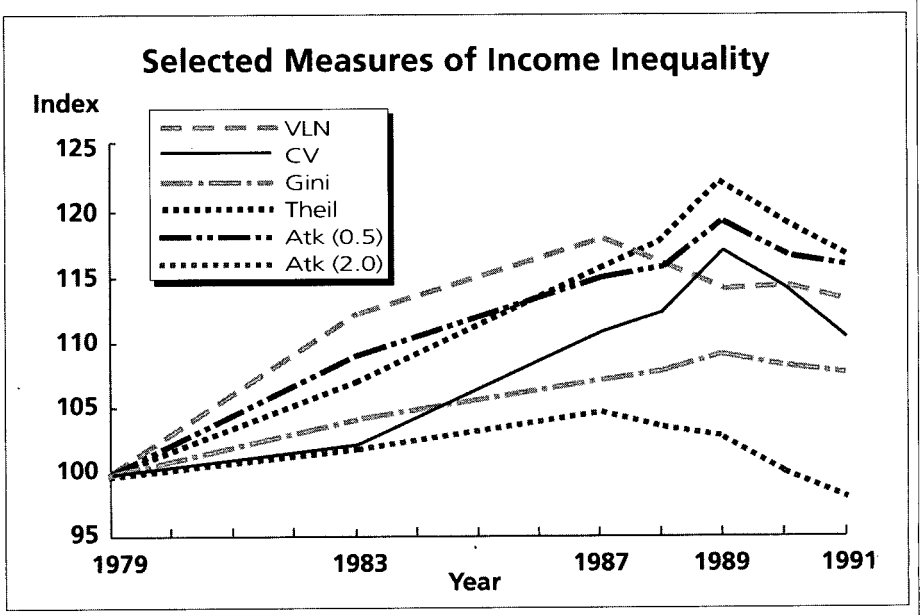
Of course, three data points do not make a trend. The statistical significance of these shifts is doubtful. But when they point in a direction contrary to conventional wisdom, they are surely worth tracking and investigating. Randall Eberts, an economist at the Cleveland Fed who spent many months at Bush's Council of Economic Advisers reviewing the politically charged literature on income inequality, said dryly, "This 1991 data certainly would have been welcome in the Bush administration had we had it."

Some economic, social and demographic changes may help account for this at-least-temporary reversal of trends in inequality. The country's merchandise trade deficit fell nearly in half during these years, reducing the pressure on manufacturing workers who face competition in the form of imports produced by low-wage workers abroad. The precipitous drop in union membership during the 1980s stabilized in this period, albeit at a low level (16.1 percent of the workforce). The minimum wage jumped from $3.35 to $4.25, benefiting those at the bottom who kept their jobs. And these years also saw a slowdown in the rapid growth in the fraction of households headed by single parents, which aggravates the poverty problem, and those with both spouses working, which tend to be among the more affluent households.

Before the cheering begins, however, take a closer look at the data. The share of households at the bottom, earning from $1 to $24,999, increased from 27.9 percent to 29.2 percent. Those in the middle, earning up to $74,999, grew from 52.5 percent to 52.9 percent. The richer households, earning $75,000 or more, sank from 19.6 percent to 17.9 percent.

In other words, Americans became more equal as most of them became poorer in the recession.

This is actually an unexpected result. As Lynn Karoly, an economist for the



Note: Income-inequality measures are expressed relative to a 1979 baseline of 100.

Source: Paul Ryscavage, U.S. Census Bureau

Rand Corporation, observes, "We normally expect recessions to worsen income inequality" as blue-collar workers and those with lower incomes take the brunt of rising unemployment. But the 1990-91 recession hit white-collar and managerial workers much harder than past downturns. As executives lost their jobs and expensive homes plummeted in value, many who profited from the roaring '80s were dragged back down into the common heap.

The most important lesson to learn—one well understood by every Eastern European—is that equality of misery is no substitute for a rising standard of living fostered by sound economic policies.

That's not what most Americans bargained for, of course. President Bush's resounding defeat says exactly what voters thought about gaining more equality at the expense of economic opportunities.

At least three lessons emerge from these data. One is that no trend lasts forever, whether one is tracking inequality or oil prices. The second is that presidents have a lot less control over income distribution than critics ever admit; not even Bush's admirers (or his detractors, for that matter) really contend that he caused income shares to shift as they did. The third, and most important, lesson—well understood by every Eastern European—is that equality of misery is no substitute for a rising standard of living fostered by sound economic policies.

Contributing Editor Jonathan Marshall is economics editor of the San Francisco Chronicle.

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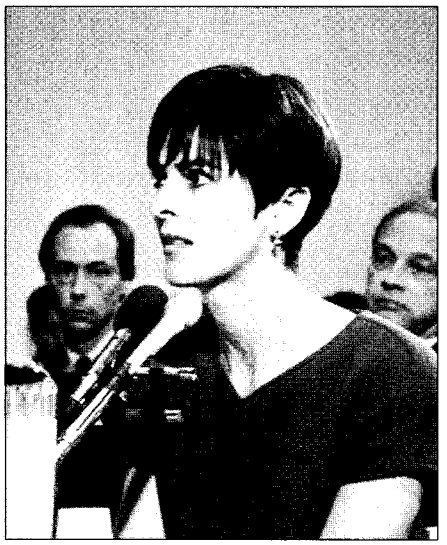
WEIGHTY MATTERS

BY JACOB SULLUM

Not long ago, a 21-year-old from California, whom we'll call Joe Deadhead, attended a concert in Buffalo. Outside the concert hall, he sold 199 hits of LSD to a friend at 65 cents each, for a total of about $130. Later on, undercover DEA agents busted Joe's friend, who agreed to cooperate and fingered Joe. Posing as buyers, the agents asked Joe if he could sell them some acid. He declined, but during the conversation he admitted selling LSD to his friend.

Now Joe is really screwed. By the standards of the Drug Enforcement Administration, 199 doses is not a lot of LSD. But under current federal law, Joe's sentence will hinge not on the (negligible) weight of the drug but on the weight of the "carrier medium"—in this case, paper impregnated with LSD. The paper weighed a little more than a gram, so the law treats Joe as if he had sold a gram of LSD, or 20,000 50-microgram doses. Under the Anti-Drug Abuse Act of 1986, that means a mandatory minimum sentence of five years. Had Joe been charged under New York state law, which does not count paper as LSD, his crime would have been a Class A misdemeanor, carrying a punishment of less than a year in county jail.

The way that federal law treats LSD doesn't make much sense. Under federal sentencing guidelines, selling 100 doses of LSD in pure form triggers a minimum sentence of less than a year, but selling the same amount on paper will get you a sentence of at least two years, three months. And if you were old-fashioned enough to drop your acid onto sugar cubes, you will end up behind bars for no less than 15 years, eight months. "All this seems crazy," wrote Richard Posner, a judge on the U.S. Court of Appeals for the Seventh Circuit, in a 1990 dissent. "To base punishment on the weight of the carrier medium makes about as much sense as basing punishment on the weight of the defendant." The consequences of this approach, Justice John Paul Stevens wrote in another dissent in the same case when it reached the U.S. Supreme Court in 1991, "are so bizarre that I cannot believe they were intended by Congress."



FAMM President Julie Stewart testifies before Congress about sentencing reform.

But the majority in *Chapman v. United States* gave Congress more credit—or less, depending upon how you look at it. The Court ruled that when Congress said a drug offender's punishment should be based on the weight of the "mixture or substance containing a detectable amount" of the drug, it meant to include paper, sugar cubes, and gelatin capsules—even, in the extreme case suggested by Posner, a pint of orange juice spiked with a dose of LSD.

Last spring the U.S. Sentencing Commission, the independent agency charged with filling in the details of federal criminal penalties, decided that something had to be done about the unfair results of this interpretation. Small-time LSD dealers like Joe Deadhead were going to prison for five- and 10-year stretches without parole. But the Sentencing Commission was still bound by the Supreme Court's ruling in *Chapman*, so it couldn't simply tell judges to exclude carrier weight when calculating sentences.

Instead, the commission came up with a strange compromise: First, count the number of doses, which are usually indicated by lines or perforations on LSD paper; then, multiply by 0.4 milligram to get the weight for sentencing purposes. This scheme would dramatically cut the sentences in many LSD cases. Joe Deadhead, for example, would face a minimum of one year, three months instead of five years. Still, 0.4 milligram, somewhere between four and eight times a typical dose of LSD, is a fictitious number. The commission explains that the standard includes "some weight attributable to the carrier medium" to avoid running afoul of *Chapman*.

Even so, the proposed change may not stand. The Sentencing Commission approved the amendment on May 4 and sent it to Congress, which has until November 1 to respond. If Congress does not act, the amendment automatically goes into effect. But Buffalo attorney Herb Greenman, who is representing Joe Deadhead, says it's not clear that the change will help defendants like his client. The five-year minimum sentence for a gram or more of a mixture or substance containing a detectable amount of LSD is set by statute, not by the commission. And at the end of its commentary on the LSD amendment, the commission writes: "This approach does not override the definition of mixture or substance for purposes of applying any mandatory minimum sentence." Says Greenman, "That little sentence, for my case, could have a big impact."

The bizarre effects of linking punishment to an unrealistic definition of drug weight are most dramatic in the case of LSD, a potent drug that weighs very little by itself. And they have become most obvious in the last few years, with the advent of mandatory minimum sentences at the federal level. But the consequences extend to other drugs as well, and the problem goes back decades. It can be explained by a combination of ignorance and anti-drug zeal.

THE CATO INSTITUTE

"You're dealing with an almost unfathomable level of ignorance about drugs on the part of the policy makers," says Eric Sterling, president of the Criminal Justice Policy Foundation and a former assistant counsel to the House Subcommittee on Crime. "These are men and women who know nothing about drugs...at the same time that they are expected to be experts. Therefore they easily convince themselves that they are knowledgeable: 'Oh yes, I know about this; I had a half-hour briefing by the DEA.' It's really a case of the blind leading the blind."

Furthermore, drug warriors are less interested in setting up neat, rational systems of punishment than in coming down hard on offenders. Heavier punishments are almost always better, and lighter punishments are almost never an improvement, even if they make the law more consistent. In this light, drug weight is not a physical measurement at all; it is simply an excuse to put people in prison for longer periods of time.

Robert Sager, former director of the DEA's Western Regional Laboratory in San Francisco, says he and other members of the agency's scientific staff were baffled by their superiors' determination to base sentences on gross weight rather than the number of doses, which had been federal practice until 1986. "We tried our best to get that thing changed," he says. "From our perspective, it was totally unreasonable. But we had a bunch of guys who were real hard asses. They didn't want to take a reasonable approach."

The DEA may have been taking a cue from New York's drug laws. Since at least 1969, punishment for some drug offenses in New York has been based on the aggregate weight of "preparations, compounds, mixtures, or substances" containing illegal chemicals. In 1974 Alejandro Daneff, who had been convicted of cocaine possession, challenged this statutory scheme in federal court, arguing that it violated the Constitution's due-process and equal-protection guarantees. Among other anomalies, he noted that someone caught with 54 grains of pure cocaine would face a misdemeanor charge, while someone who had the same amount of pure cocaine mixed with 16 ounces of milk sugar would be treated as a Class A felon.

The U.S. Court of Appeals for the Second Circuit found that New York's treatment of drug weight had some rational basis, since cocaine and heroin are commonly sold in diluted form. Moreover, it said, "the State cannot be expected to make gradations and differentiations and draw distinctions so fine as to treat all law violators with the precision of a computer." Although the court found that Daneff's sentence was constitutional, it acknowledged that the law "could cause some rather remarkably unjust results," especially in light of the harsh mandatory sentences that the New York legislature had adopted in 1973. Selling a single liquid dose of methadone, for instance, would trigger a mandatory life sentence.

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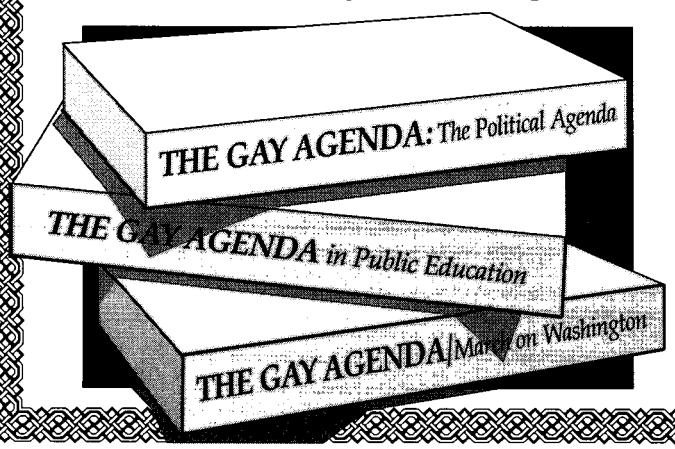

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scient. In 1975 the New York Supreme Court found that the law's treatment of methadone violated the Equal Protection Clause. The New York legislature responded by promptly changing the basis for punishment of methadone offenses to pure weight (which is also the standard that the state uses for LSD).

New York's experience with methadone offers some hope for reform of the federal sentencing scheme. Prospects seem especially bright in the case of LSD, since it appears that Congress really did not know what it was doing, despite what the Supreme Court says. "I don't think people appreciate the extraordinary haste with which these provisions were developed," says Sterling, who worked for the House Subcommittee on Crime when it dealt with the Anti-Drug Abuse Act of 1986. "Congress was oblivious to the [carrier/drug] distinction. It had no intent one way or another. It simply didn't consider what the implications were." Both Sen. Joseph Biden (D-Del.) and Sen. Edward Kennedy (D-Mass.) have proposed amendments to exclude carrier weight from consideration in LSD cases.

But Julie Stewart, president of Families Against Mandatory Minimums, says the Sentencing Commission's proposed LSD amendment will probably take the pressure off Congress. Especially if the change is retroactive, the families of LSD defendants will be less noisy, and judges will find the sentences they're forced to impose less disturbing.

Stewart is more optimistic about the possibility of a legislative solution for crack offenders. Federal law treats crack cocaine as if it were 100 times worse than the powdered form of the drug, cocaine hydrochloride. Thus 500 grams of crack triggers the same penalty as 50 kilograms of cocaine hydrochloride. A first-time offender with 20 grams of cocaine hydrochloride faces a minimum sentence of 10 months, while a first-time offender with 20 grams of crack faces a minimum of six years, six months.

For defendants with previous drug convictions, sentences quickly escalate. Cordell Spencer had been convicted of three small-time drug offenses before his arrest in Washington, D.C., last year for possession of 6.69 grams of crack and 0.87 gram of heroin. Consequently, he faced a minimum sentence of 30 years. In April U.S. District Judge Harold Greene refused to impose the sentence. Although the U.S. Supreme Court has held that judges should defer to the legislature even when sentences seem grossly disproportionate, Greene noted that Spencer's punishment had actually been dictated by the Sentencing Commission, which he said deserves less deference. He ruled that a 30-year sentence for Spencer would violate his right to due process as well as the constitutional prohibition of cruel and unusual punishment.

The disparity between penalties for crack and cocaine powder is especially troubling because more than 90 percent of federal crack defendants are black. The appearance of racism makes this a powerful issue.

The draconian penalties for crack offenses cannot be justified on pharmacological grounds. The active ingredient in both the snorted and smoked forms of cocaine is exactly the same, and the powder can be readily converted into crack. "The 100-to-1 number is not one that's based on any kind of science," Sterling says. "It's a political assessment based on hysteria."

The disparity is all the more troubling because more than 90 percent of federal crack defendants are black. The appearance of racism makes this a potentially powerful issue. Joseph Lowery, head of the Southern Christian Leadership Conference, has expressed concern about crack sentences, and FAMM is trying to persuade the Congressional Black Caucus to tackle the problem. "I think there's a good chance that we'll see movement on that," says Stewart. "It's a politically correct issue."

The issue of marijuana weight is not so politically correct, although the drug is perceived to be much less hazardous than crack. While LSD sentences can be explained by an oversight and crack sentences are the product of a widely believed myth, marijuana sentences are the result of a transparent fiction. Julie Stewart's brother Jeff is serving a five-year mandatory minimum sentence for growing 375 marijuana plants with three friends. It's the same sentence he would have faced if he had been caught with 375 kilograms (825 pounds) of pot. That's because the federal sentencing guidelines instruct courts to treat a marijuana plant as equivalent to a kilogram of pot in cases involving 50 or more plants. If fewer than 50 plants are involved, each plant counts as 100 grams.

Leaving aside the remarkable assumption that the per-plant yield increases tenfold when you pass the magic 50-plant mark, neither of these figures is accurate. First of all, it's misleading to measure yields by the number of plants. Ed Rosenthal, a marijuana cultivation expert who testifies frequently in criminal cases, says the relevant factor is the size of the garden. "You don't say to a farmer, 'How many tomato plants did you grow?' " he notes. "You say, 'How many acres?' " In a four-foot-by-four-foot closet, for example, you could grow 32 plants (two per square foot) or 64 plants (four per square foot). The yield would be about the same, but you would fill the garden and harvest pot sooner with more plants.

Rosenthal says an indoor plant typically yields less than an ounce (28.35 grams) of pot, while an outdoor plant typically yields two to three ounces (56.7 to 85 grams). The notion that the average plant would yield anything like a kilogram (2.2 pounds) is without foundation. "It's totally arbitrary," Rosenthal says. Yet the federal figure has set a new standard for what cops can get away with when testifying in state marijuana cases. "They'll say, 'The federal government claims that each plant weighs a kilogram, but I think they only weigh a pound,' " he says. "So they sound reasonable."

Jacob Sullum is managing editor of REASON.

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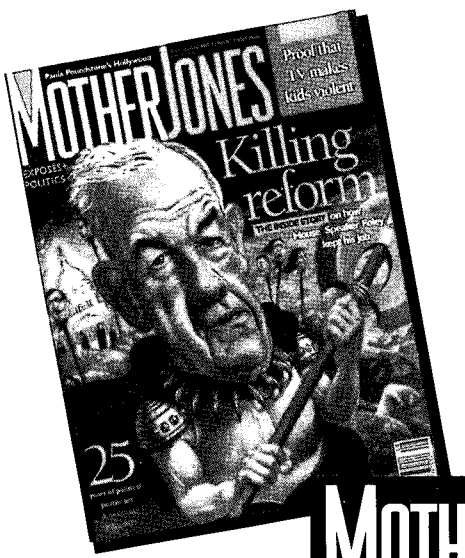

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Dangerously Unbalanced

BY JOHN McCLAUGHRY

Grassroots Tyranny: The Limits of Federalism, by Clint Bolick, Washington: Cato Institute, 189 pages, $12.95 paper

The essence of federalism, argues Clint Bolick, is the protection of individual liberty, the paramount constitutional value. Counterbalancing power between the states and the national government helps ensure that both exercise their prescribed powers efficiently and that neither exercises unrestrained power.

In *Grassroots Tyranny* Bolick, a civil rights lawyer with the Institute for Justice in Washington, laments the destruction of this true federalist ideal by two mutually opposed groups of villains. In its place, in addition to federal tyranny, we have now acquiesced in a grass-roots tyranny of state governments and their creatures, some 82,000 (!) city, town, township, county, and special-district entities, each demanding a piece of its hapless citizens. What appear to be the two opposing poles in the contemporary federalism debate are actually united in one crucial belief: that individual liberty is but a minor consideration in the distribution and exercise of governmental powers.

Bolick battles for the economic rights of such entrepreneurs as the owners of this hair-braiding salon in Washington, D.C.

Most of those who pass for "conservatives" are proponents of "states' rights federalism," a hoary legacy of the days of human slavery. To this camp, whose archetypes are former Judge Robert Bork and former Attorney General Edwin Meese III, the 10th Amendment, which reserves powers to the states, is all important, and the Ninth Amendment, with its admittedly nebulous declaration of rights retained by the people, is a nullity. Meese, at least, opposes the idea that the Bill of Rights, written to restrain Congress, became with the 14th Amendment applicable to state and local governments as well.

These conservatives animadvert against federal mandates on the states and federal judges who interfere with state law making, so long as those laws do not clearly contravene the Constitution and are adopted democratically by a majority. (One may wonder where Counselor Meese was when President Reagan signed the bill to make federal highway grants contingent upon the recipient state's raising its drinking age to 21.) This view is neatly summarized in a quotation from political scientist Stephen Macedo: "When conservatives like Bork treat rights as islands surrounded by a sea of government powers, they precisely reverse the view of the Founders as enshrined in the Constitution, wherein government powers are...rendered as islands surrounded by a sea of individual rights."

The other group of federalism wreckers are social-action liberals, typified at one time by Louis D. Brandeis and in our time by William Brennan. They have a habit of shifting constitutional ground whenever a more attractive way of achieving their liberal ends can be devised. Sixty years ago, when a conservative Supreme Court struck down state invasions of liberty and contract on the grounds that "there are certain essentials of liberty with which the state is not entitled to dispense in the interest of experiments," liberals demanded that state governments be allowed maximum latitude to experiment (with government-organized cartels, "managed competition," price fixing, confiscation of property, etc.). In the expansive years of the Warren and Burger Courts, the same liberals demanded federal judicial action to eradicate local anti-liberal practices, notably by mandating racial quotas and balance, expanding entitlements for the poor, and creating new rights for criminal defendants and prisoners.

Bolick argues that both of these groups miss the real point: Federalism was consciously designed to limit governmental power and thus to protect liberty. State governments should respect the liberties of their citizens and protect them against federal intrusion. The national government should protect the liberties of the same citizens against state intrusion. Bolick rightly laments the infamous 5-4 Supreme Court decision in the *Slaughter House* cases (1873), which emasculated the 14th Amendment's Privileges and Immunities Clause, clearly intended to make the national government the protector of individual liberty of all citizens.

MARSHALL H. COHEN

Bolick's catalog of current grass-roots tyranny is depressing, though far from encyclopedic. Examples: the federally aided obliteration of Detroit's Poletown to make way for a Cadillac assembly plant that was never built; New York City's refusal to let a homeowner occupy his own home; California's extortion of beachfront property owners; Cincinnati's attempted suppression of a Robert Mapplethorpe art exhibit; the decade-long battle of two black entrepreneurs to preserve their cornrow-braiding salon against the fierce opposition of the District of Columbia; the mandated insolvency of auto insurers under New Jersey's Joint Underwriting Act; the criminal conviction of a Georgia man for having the wrong thing in his mouth (a male friend) when the police broke in looking for drugs; the California parents whose children cannot be given IQ tests because of their race (black and Hispanic).

After this litany of truly egregious crimes by governments, the reader eagerly awaits the remedy. Surprisingly, it is the same remedy as for tuberculosis: "Sunshine is the only antidote to grass-roots tyranny." Once revealed in all their ugliness, Bolick believes, these practices will be overthrown by citizen action, the electoral process, and determined litigation. As a state senator who incredulously watched his mostly normal-appearing colleagues serenely (in the face of his vigorous remonstrances, e.g., "Folks, this is WACKO") vote 25-4 to put the state public service department in charge of policing politically incorrect fluorescent bulbs, this reviewer can perhaps be excused for some cynicism about the curative powers of sunlight.

But sunlight is not the only remedy Bolick offers. He also has an idea he calls community rule adoption. He believes that when "communities," whatever they are (Baptists? Gays? Drug dealers? Tax resisters?), "adopt rules or values that are contrary to government regulation, a constitutional presumption in favor of liberty would force government to justify such restrictions, thereby protecting communities against government." This is a disconcerting concept. Are there self-defined "communities," as opposed to individuals, that have rights against the government?

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Bolick also is occasionally silent on a crucial question that he himself considers important: the rights of property owners. Was the Cincinnati Contemporary Arts Center government owned? If so, can the owner not decide which works of art shall be displayed and which removed? Why should a columnist at a California State University student newspaper have the right to demand that his writings be published therein? Whose newspaper was it? His?

The key question in reviving Bolick's federalism and defeating grass-roots tyranny is the method by which the courts, state and federal, will act to protect liberty. Each court, he argues, should begin with the presumption of liberty imputed to those who authored the constitutions and amendments over the years. (How these authors tolerated governmental invasions of liberty that would appall us today, a necessary ingredient in the argument from original intent, is not addressed.) In litigation, the courts must require the challenged government to "demonstrate that the laws are necessary to achieve a legitimate government objective....If the government is unable to justify the regulations, the laws should be struck down. Government must accept the burden of demonstrating that its regulation of individuals is a reasonable exercise of a delegated power."

Unfortunately, courts have too often, for instance, found that government regulation of the human right to own property in land may proceed unhindered so long as some discernible sliver of value remains to the landowner. Hence, in *Lucas v. South Carolina Coastal Council*, Justice Harry Blackmun, dissenting, observed that the plaintiff could under the regulation continue to use his $975,000 beachfront lot for "picknicking," so no regulatory taking had occurred. *Legitimate objective* and *reasonable exercise* are weasel words that the courts at all levels, with only rare exceptions, have stretched beyond recognition in support of the insatiable meddlesome and confiscatory demands of Leviathan.

Sunshine will doubtless help, but in the last analysis there are only three nonviolent methods for the people to protect their dwindling liberties against governmental encroachment: 1) They can elect legislators who will vote for, not against, liberty and executives who will appoint judges who will interpret the laws with a presumption for liberty. 2) They can persuade the required majorities of Congress and state legislatures to make constitutionally explicit the privileges and immunities and Ninth Amendment rights retained by the people, along the lines set forth in Justice Bushrod Washington's dictum in *Corfield v. Coryell* (1823). 3) They can accept Bork's Prescription (move). To carry the discussion of remedies further requires reflection on the purpose of the Second Amendment, now under full assault by President Clinton, Attorney General Reno, and like-minded members of Congress.

Clint Bolick practices what he preaches. He has been at the forefront of numerous cases to protect and expand liberty, and his writings have given renewed vigor to the concept of economic rights as true civil rights—a concept that every freed slave of 1864 must have well understood. His book is well organized, well written, and supremely topical. His guiding principle—federalism as a means for protecting people's liberties from governments, while allowing the "legitimate" and "reasonable" objectives of government to be carried out—is sound and vital. Friends of liberty will profit by reading it and by advancing under its banner.

John McClaughry, a former state senator, heads the Ethan Allen Institute in Concord, Vermont.

Sins of the Censors

BY THOMAS W. HAZLETT

Free Speech for Me—But Not for Thee: How the American Left and Right Relentlessly Censor Each Other, by Nat Hentoff, New York: HarperCollins, 405 pages, $25.00/$13.00 paper

When it comes to literary censorship, Mark Twain's *Huckleberry Finn*, published in 1884, is probably the American heavyweight champion. In its early days it was banned by prudes offended by its vulgarity. In 1885 the Concord, Massachusetts, public library expunged the book, calling it the "veriest trash," and in 1902 the Denver public library did likewise, decrying it as "immoral and sacrilegious." In modern times, politically correct Americans have been outraged by Twain's novel, which employs the term *nigger* some 300 times. New Trier High School in Winnetka, Illinois, banished the tome in 1976 upon finding that it was "degrading and destructive to black humanity." The book now faces virtually constant attack from do-gooders across the fruited plain.

Left, right, and center, Americans have not been shy about censorship. Yet under whatever banner, book burning is itself offensive and insensitive to the values of a free people. As Nat Hentoff tirelessly details in his brilliantly argued, documented, and written book, *Free Speech for Me—But Not for Thee*, neither does censorship do justice to those it purports to protect. The black school children who are spared the jarring confrontation with Huck's friend, Nigger Jim, will be less well-armed to surmount the travails of racism in real life. In fact, the censors generally seem to miss the whole point.

With *Huckleberry Finn*, the speech regulators miss the mark by an incredible margin: Twain's aim was to ridicule racism. And not just with some sterile, academic diatribe, or with some drippy account of victimization, but from the perspective of a white boy who figures out the stupidity of bigotry all on his own. Hentoff quotes Russell Baker's description of *Huckleberry Finn*'s moral: "The people [Huck and Jim] encounter are drunkards, murderers, bullies, swindlers, lynchers, thieves, liars, frauds, child abusers, numb-skulls, hypocrites, windbags and traders in human flesh. All are

white. The one man of honor in this phantasmagoria is black Jim, the runaway slave. 'Nigger Jim,' as Twain called him to emphasize the irony of a society in which the only true gentleman was held beneath contempt."

Ah, good point, Mr. Twain. But just a tad insensitive for our young scholars, don't you think? OK, maybe it's not a bad book; Ernest Hemingway did say that "all modern American literature comes from one book by Mark Twain called *Huckleberry Finn*." But that word *nigger* is so hurtful! The black parents object strongly to that book in the classroom, and the white liberal administrators just don't want any trouble. As the principal of Mark Twain (!) Intermediate School in Fairfax County, Virginia, said after banning the book: "I just felt that a student of any race or nationality shouldn't be made to feel uncomfortable in a classroom."

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BOK
LET US BOW OUR HEADS IN COURT PROTECTED PRAYER AND ASK THAT THE WATER-BUFFALO WHO WROTE OUR SCHOOL SPEECH CODE DROP DEAD.

Sometimes being protected means being disrespected, Hentoff notes. "Let us suppose it is true that Huck had paralyzed those black kids," he writes of a successful censorship campaign waged by African-American parents in Pennsylvania. "All the more reason for them to get all the way into understanding *Huckleberry Finn*. Otherwise, what a terrible thing to learn! That he is so fragile, so vulnerable, so without intellectual and emotional resources that a book can lay him low. And that is what the teachers and supervisors of the junior high schools in Warrington, Pennsylvania, had allowed the black children in their care to learn."

Hentoff is a marvelous tour guide in this cruise through modern American censorship. While it begins with Twain, it passes through a house of First Amendment horrors that now stretches coast to coast: hate-speech ordinances, speech codes on campus, flag-burning amendments to the U.S. Constitution, feminist-Moral Majority coalitions to ban pornography. A loyal civil libertarian, Hentoff dependably gives us his personal view of the friends and foes of free speech. He is particularly meticulous in charting the path of the American Civil Liberties Union—where it stands up for freedom and where it chickens out.

The book spins from an interesting political dynamic. A committed man of the left, a proud veteran of the civil rights movement of the 1960s and the counterculture publications of today (*The Nation*, *The Village Voice*, the *Washington Post* editorial page), Hentoff must expend virtually all of his ammo on left-wing censors. When one hunts for intolerance, that's where one finds the ducks. (He goes far and wide in search of right-wing censorship, however, going back to an interesting personal rendition of the campaign against his friend, the late, great comic and social satirist Lenny Bruce.) Hentoff is a marksman, and you trust his aim because his targets are not gratuitous.

The feminists, for instance. Hentoff, who labels one chapter "The Gospel According to Catharine MacKinnon," reports that a group of librarians in upstate New York recently suggested that the following label be put on particular books in school libraries, as needed: "WARNING: It has been determined that these materials are sex-stereotyped and may limit your sense of freedom and choice. (These labels can be typed and reproduced as a student project.)" How nice for our youngsters to absorb a bit of applied civics.

The politically correct crowd has so successfully chased out the dissenters from its ranks that it has become intellectually flabby, insulated as it is from any robust political workout. The PCers are blissfully ignorant of the laughingstock which their petty fiefdoms have become. Hentoff is not bashful about bringing them up to speed, gracefully savaging both Donna Shalala and Sheldon Hackney (writing before either was nominated by President Clinton's PG [pre-Gergen] administration). As the censorship-prone president of the University of Wisconsin, Shalala vigorously defended a "hate speech" code which the federal courts thought offensive and hurtful of the Bill of Rights. (She even counterattacked with yet another version before the U.S. Supreme Court snuffed such speech regulation in the June 1992 decision *RAV v. St. Paul.*) And the pathetic Hackney is exposed as having gone AWOL on free speech as president of the University of Pennsylvania: When irate black students destroyed an issue of the school paper because it carried a conservative student's editorial, he adroitly saw "both sides" of the difficult question—and took no action.

Fortunately, Hentoff sees no such ambiguities, only spineless hacks abrogating their duties to educate young truth seekers in the challenges and opportunities of a free society. Escaping from nihilism, Hentoff celebrates those students who reject repression in favor of open forums and applauds those pitifully scarce scholars and judicial warlords who demonstrate the courage of their free-speech convictions. Stand up and give a hand to Yale's C. Vann Woodward, Guido Calabresi, and Benno Schmidt, and to a cadre of federal judges who prefer to bring "offensive" speech into the light of open debate rather than to cover up reportedly evil thoughts in the darkness of taboo.

Keeping suspicious ideas in the dark can lead to two sorts of mistakes: People fail to see unpopular truths, or what is patently false never meets combat. In the

CHIP BOK

latter instance, heinous ideas gain a new life underground, free of challenge, and their expositors become martyrs—dangerous social critics too hot to handle!

This is the great irony of censorship. Every radical yearns to be branded an enemy of the state. What could sell more tickets that "Banned in Boston"? Call me "America's Most Dangerous" anything, and I'll fill the coliseum. Hentoff says: We activists ought to know how powerful it is to be a subversive agent, because so recently we were one. His most poignant remembrances are of the civil rights movement and how the First Amendment did make us free.

It's a key point, because today the very cause of civil rights is trotted out as grounds for suppression of speech. When a law student at Georgetown had the audacity to publish statistics showing that black law-school applicants were admitted with lower grades and achievement-test scores than whites, the "whistle-blower" was denounced by black students, and the two distinguished civil-rights lawyers (Tom Mack and Bob Catz, both professors at the D.C. School of Law) who defended his right to free speech were condemned as accessories to racism. (No Georgetown faculty member would take the case.)

Hentoff writes: "What if a student at another school had discovered...that the school had been discriminating against blacks? The very D.C. Law School students who were attacking Mack and Catz for their 'disloyalty' would have very much wanted Mack and Catz to defend that student.

"But many of the black students remained angry. One scornfully told the two professors that this First Amendment that they so prized 'drove my family out of Alabama' because the Ku Klux Klan had had the First Amendment right to speak and demonstrate. But had the First Amendment not been available to black protesters in the South, the marches and demonstrations that led to the Civil Rights Act might well have been crushed."

When Hentoff probes the bounds of free speech, school administrators often tell him what Dean William L. Robinson of the D.C. Law School said about this episode: "Civil liberties, while being within the pale, are not the focus here. Faculty members must keep in mind the hurt their actions will do to the community of the law school." To which Hentoff responds: "Students are being taught to see themselves as fragile victims. That is not the way to learn empowerment."

Ultimately, censorship ensnares those whom it supposedly protects in the self-defeating web of victimization, while bestowing hero status on social scofflaws. True civil-rights activism deploys controversial ideas, Hentoff reminds us, and will forever remain in need of protection by the Bill of Rights. Radicals are in the minority. They make dangerous demands. They are offensive to the status quo. They may stir a violent reaction. Each of these offenses are now reliably trotted out to justify suppressing unpopular expression as "hate speech," "fighting words," "unpatriotic," "subversive," or "inciting a riot." Hentoff is fooled by none of the rationales—not even by the "hecklers' veto." ("Oh, we'd love to hear Dr. Provocative's campus lecture—but we just can't be responsible for the violence that is sure to follow.")

Hentoff's book makes a plea: Free speech has served many a radical cause well; don't turn soft on me now, comrades. Hentoff, while failing to see the reflexive authoritarianism of the "pass a law" generation that now dominates the left-wing political cells, and the instinctive nature of the legislate-and-crush approach that is passed along in the DNA of the right, gets virtually the whole of this story dead-on correct. (His most disappointing slip-up is in the increasingly important area of electronic speech. He sees government-mandated access to cable TV, for instance, as a logical extension of the First Amendment. In fact, it is a profound reversal of the "Congress shall make no law..." paradigm.) Thanks to Hentoff's vigilance, we have a champion of the First Amendment's libertarian spirit whom every school child in the country should be forced to read.

(Just kidding about the "forced" part, Nat.)

Contributing Editor Thomas W. Hazlett teaches economics and public policy at the University of California, Davis.

Symbols and Self-Reliance

BY MARK MARTINEZ

Mexican-Americans: The Ambivalent Minority, by Peter Skerry, New York: The Free Press, 400 pages, $27.95

The media, the public, our schools all refer to Mexican-Americans as a single ethnic group with a common culture and common goals. Even Mexican-Americans often accept this umbrella identity. Yet the Mexican-American experience in the United States is ambivalent and diverse. We do not speak with a single voice. Peter Skerry, director of Washington Programs for the UCLA Center for American Politics and Public Policy, probes this ambivalence in *Mexican-Americans: The Ambivalent Minority*.

Mexican-Americans, he notes, often remind us that "some of us have been here for three hundred years, some for three days." Some are fully assimilated into mainstream America; others have just begun that process.

Assimilation, says Skerry, will occur, even for newcomers. The key question, however, is *how* the newcomers will blend into the broader American culture. In answering this question, he raises some fundamental dilemmas faced by today's Mexican-Americans. His analysis is largely on target, though the reader wades through a lot of sociological mumbo-jumbo on the way to absorbing his message.

Skerry sees the Mexican-American community deeply divided between two paths to assimilation. One is a path through which Mexican-Americans gain a foothold in mainstream local political and economic institutions. This is the traditional immigrant path of empowerment. The other is a path of playing—permanently—the role of

victim, of "racially oppressed minority."

Skerry explores these two alternatives by looking at the Mexican-American political culture in San Antonio, Texas, and contrasting it with that in Los Angeles. This tale of two cities underscores the two dramatically different models of assimilation. Mexican-Americans in San Antonio have followed the traditional immigrant story of generational success. In Los Angeles, paralleling the experience of African-Americans, they increasingly cling to the image of victim of oppression and segregation.

Skerry's description of this contrast is both accurate and troubling. In part the split is responsible for tensions between Latino youths and their parents. The latter, according to public opinion surveys, still tend to adhere to the American dream of participation in mainstream economic advancement and in the larger American political arena. Latino parents, for the most part, still believe that hard work leads to success.

Youths, by contrast, are increasingly inclined to blame racism for their troubles. As a result, they press for entitlements to redress their grievances. And Mexican-American leaders, especially politicians, are expected to push the Mexican-Americans-as-victim thesis. Yet catering to those pressing this thesis puts Latino leaders at odds with a large segment of the Latino working community.

Moreover, the fruits of this "victim" politics are meager, or even counterproductive. Several decades ago in my community, Latinos established one of the first Mexican-American community centers in the United States, La Casa de la Raza. The center sprang from the efforts of countless local volunteers. A product of neighborhood collaboration, it served as a cultural and community mecca of local Mexican-Americans.

Today, La Casa is crumbling; it is no longer a real community meeting place. Somewhere along the way, Mexican-Americans, mostly young "activists," turned La Casa into a pulpit for the politics of victimhood. They pursued government funding for its operations, abandoning the self-sufficiency of La Casa's beginnings. What had seemed like easy money instead turned into dependence. Now, the Latino community that La Casa had served is truly a victim—a victim of the political tack taken by those activists who wrestled it away from the mainstream Latino community. Once-plentiful public funds have dried up, and, with La Casa cut off from the neighborhood that created it, there isn't enough private money or helping hands to fill the void.

How could this change in Mexican-American politics have occurred? Why has the path of the newcomer begun to diverge from that of his predecessors who got a foothold in America in earlier centuries?

Skerry pins some of the responsibility on civil-rights law and jurisprudence over the past 30 years. Our legislators and our courts have created a body of law that emphasizes racial criteria as a basis for rights violations, moving away from the Founding Fathers' focus on "blind" justice and individual rights.

For Mexican-Americans, this evolution in civil-rights law has helped spur some efforts at assimilation. For example, voting-rights laws, with a focus on racial "fairness," have prompted the redrawing of district lines in a number of communities, Los Angeles included, to promote election of Latinos to office. While this may have resulted in some political representation, it also has kept Latinos locked into a self-definition as outsiders.

By contrast, in communities like San Antonio, Mexican-Americans have not relied on carving out special districts to gain representation. Instead, like other immigrant groups, they have relied on neighborhood organizations, churches, and family connections to build a power base and enter the world of politics.

Skerry's most provocative discussion emerges as he examines how these processes influence the content of political goals and the focus of political protest. "In Texas," he writes, "Mexican Americans protested because they felt excluded from the social, economic, and political system, and they 'wanted in.'" They largely succeeded, "and protest has vir-

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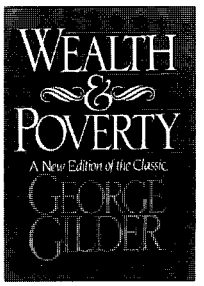

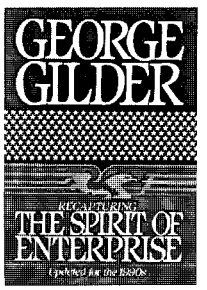

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tually disappeared."

"But," continues Skerry, "in the much more favorable setting of California, Mexican Americans have already gotten 'in'—compared, at least, to their Texas counterparts. Deprived of the obvious barriers upon which their ideology nevertheless continues to fixate, Chicano activists in California have pursued more expressive, symbolic concerns. Lacking concrete objectives, their protest endures as dramaturgy." And, since the protest is symbolic, there is no endpoint, no comfortable assimilation. Instead, there is a constant demand for special recognition—through redistricting, or special social programs, or affirmative action and group rights.

UCLA Protesters: Deprived of obvious barriers, Chicano activists in California have pursued symbolic concerns.

The Texas model, on the other hand, is a politics of self-reliance. Under this approach, says Skerry, "the frequently invoked 'Iron Rule' is: 'Don't do for people what they can do for themselves.' "

Skerry sees this self-reliant, community-organizing approach as waning, in part because of changes in American political institutions generally. "Contemporary American political institutions and culture," he writes, "encourage Mexican Americans to define all their grievances in racial terms." Even Mexican-Americans who have been here the longest and who have been most integrated into mainstream institutions have stepped up their complaints about discrimination.

Skerry suggests that these complaints may not reflect actual conditions. "Our post–civil rights institutions," Skerry argues, "encourage today's Mexican Americans to define discrimination much more broadly than earlier generations did and, at the same time, to interpret an array of problems similar to those experienced by immigrants generally as manifestations of racial prejudice."

This perspective poses a problem for Mexican-Americans: The substantial evidence of their actual upward mobility suggests that "Mexican Americans such as these must grapple not with *obstacles* to assimilation, but with its consequences...the 'corrosive' impact of cultural assimilation on their lives.' " Skerry argues that this perception of assimilation as corrosive emerges from what are essentially two contradictory beliefs.

On the one hand, these political protesters view American society as a racist one that won't permit them to assimilate. On the other hand, they perceive that assimilation as "an inexorable and insidious process that must be resisted at all costs." The result, says Skerry, is confusion—and opportunities for advocacy groups like MALDEF (the Mexican-American Legal Defense Fund) "whose fortunes depend on sustaining the politics of minority grievances."

Skerry is right, but only to a point. The Mexican-American community is divided, and the divisions are evident not only between, say, Los Angeles and San Antonio, but within the many small and medium-sized communities that dot the California landscape and boast large numbers of second, third, or even sixth-generation Mexican-Americans.

As Skerry says, these Mexican-Americans have strong community ties and mediating institutions that bind them to the larger American political, economic, and social world. At the same time, Mexican-Americans, especially youths, feel pressure to play the politics of protest.

Like conservative African-Americans, Mexican-Americans find it difficult simply to pursue the American dream and become part of the fabric of American life. Instead, we are *supposed* to embrace "protest" politics and claim entitlements and special status. We are *not* supposed to align with conservatives who want to carve out a bigger role for family, church, and community, while limiting the scope of government in our lives.

Still, Skerry overstates this trend. In small towns like my own, the pull of family, church, and community remains strong. Even in cities like Los Angeles, the Latino business community is resisting the politics of victimhood. And nationwide opinion polls show Latinos often endorsing traditional American values.

Skerry also overstates the tension between assimilation and the desire to maintain a cultural identity. His own discussion of San Antonio illustrates that assimilation into mainstream political and economic life can occur without sacrificing cultural identity. In fact, this prospect is especially likely among Mexican-Americans because they benefit from a continued infusion of new Mexican arrivals who bring with them a strong cultural identity.

These caveats only slightly temper Skerry's point. The pull in the big cities—like Los Angeles—may be toward the politics of victimhood, in which a handful of self-appointed elites attempt to manage the concerns of the Mexican-American population. They manage them not by helping Mexican-Americans to assimilate but by playing off the frustrations of more recent immigrants and encouraging discontent and a racially defined identity.

Yet this path is bankrupt; it has little to offer the growing ranks of Mexican-Americans, especially the emerging middle class. That may explain why so many Mexican-Americans abandoned their traditional Democratic allegiances in two big political contests in 1993. Some 43 percent of the "Hispanic" vote went to Republican Richard Riordan in the L.A. mayoral election. And a large

SUZANNE OATEY

block of Mexican-Americans voted for Republican Kay Hutchison in the Texas race to fill former Sen. Lloyd Bentsen's vacated seat.

Democratic politics *is* increasingly the politics of victims. But as the countless subsets of victims vie for a place on the Democratic Party's agenda, Mexican-American interests get lost in the shuffle. In part, they get lost in the shuffle because many Mexican-Americans don't see themselves as victims. By contrast, Republican politics, however inadequate, offer at least the rhetoric of family values and pursuit of the American dream, both of which appeal to many Mexican-Americans.

Skerry's tale is not really about Democrats or Republicans. But it is in the voting booth that we may increasingly see the tensions in Mexican-American political culture played out.

Mark Martinez is a City Council member in Carpinteria, California.

Immaterial World

BY BRINK LINDSEY

The Evolution of Progress: The End of Economic Growth and the Beginning of Human Transformation, by C. Owen Paepke, New York: Random House, 382 pages, $25.00

This book reminds me of Francis Fukuyama's *The End of History and the Last Man*: an absurd but engaging thesis, thoughtfully and earnestly argued. Though the central argument ultimately runs aground, the journey toward the reefs is an interesting and thought-provoking one.

The author is C. Owen Paepke, a Phoenix, Arizona, attorney and "unabashed generalist," according to the jacket sleeve. His modest proposition is that the era of material progress, and its radical transformation of living standards over the last two centuries, is coming to an end. "The children of the 1980s and 1990s," he writes, "will exert about the same effort during their lifetimes, and will have their needs and wants satisfied to about the same degree, as their parents....Man's material state has arrived at its practical limits."

As economic growth peters out, a different form of progress, what Paepke calls "human progress," is now emerging: "The new kind of progress, which makes human traits and abilities the subject rather than just the source of change, will dominate the agenda of the next century, perhaps even the next decade." Thus, as the conditions under which human beings live enter a long stagnation, qualitative improvement of human beings themselves is now on the horizon. Paepke has in mind such things as the extension of the human life span and the augmentation of intelligence through chemical, genetic, and electronic means.

Unlike Club of Rome types, Paepke rejects the notion that finite resources pose limits to economic growth. "In practical terms," he says, "the planet's resources have become not scarcer, but more plentiful." Instead, he argues, material progress is grinding to a halt because of a combination of technological limitations and consumer satiety. In other words, for most of the things we do, there just isn't any appreciable room for improving how we do them—or if there is, people aren't willing to pay for it with the necessary savings and investments.

Paepke sees the past two centuries of economic growth as the product of four converging historical forces, all of which are nearly spent: technological innovation; the emergence of free-market institutions; market expansion through cross-border trade; and the accumulation of capital.

As to technology, here's the nub of his case in one paragraph:

"But technology, however ingenious, must obey physical laws, and those laws limit the tangible benefits to be realized from further advances. Consider transportation. Crossing the United States in a Conestoga required considerable grit,

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some luck, and six months. It now occupies a few hours spent sitting in an easy chair. The next century could shave another hour or two from the transit time, but that improvement would be negligible compared to what technology has already accomplished. Satellites and fiber optics communicate information in all forms worldwide at the speed of light, an absolute physical limit. Energy flows freely from fossil, hydroelectric, and nuclear sources. Contrary to the common perception, it has become not scarce and expensive but abundant and cheap. Vaccines and antibiotics have nearly eliminated the threat from contagious disease in the developed world, allowing all but a small minority to live full life spans. Labor-saving mechanization and rising yields have reduced the number of farmers, once a majority of the population, to negligible levels. Manufacturing productivity increases—more than tenfold in this century alone—are doing the same for blue-collar labor. In these and other fields, future progress will be confined to ever smaller increments between the state of the art and the limits of the possible."

Paepke grossly overstates his case. New technology continues to hold the promise of not just incremental but sweeping changes in material welfare. While information may travel over wire or glass or through the air at the speed of light, it rarely makes the trip from sender to receiver without major bottleneck slowdowns at both ends—if you don't believe me, try faxing a 100-page document sometime.

The not-far-off arrival of integrated broadband communications—the much ballyhooed "data superhighway"—will break through those bottlenecks and allow the real-time communication of voice, text, and video. That capability will radically transform the way we do business, the way we entertain ourselves, and the way we educate our children.

In other areas, biotechnology can offer healthier and better-tasting food. More exotically and over the longer term, space travel can literally open up whole new worlds for human development. In addition to creating dramatic new products and services, technological innovation will continue to batter down the costs of existing goods.

Paepke notwithstanding, there remains plenty of room for improvement. For example, about 16 percent of the U.S. work force is still tied down in manufacturing; about 20 percent is in wholesale and retail distribution. Those percentages contain large chunks of blue-collar and middleman inefficiency that will eventually be rooted out by developments in automation and information technology. In turn, those cost savings will free up resources for, among other things, increased leisure, improved environmental quality, new forms of entertainment, new cultural outlets—not to mention investing in and buying all the new goodies of "human progress" that Paepke trumpets in the second half of his book.

While information may travel over wire or through the air at light speed, it rarely makes the trip from sender to receiver without major bottleneck slowdowns at both ends—if you don't believe me, try faxing a 100-page document sometime.

Of course there will be industries that remain relatively untouched by technological dynamism—in particular, many face-to-face services (for instance, hotels and restaurants). Still, I have little doubt that material conditions in the 1990s will seem unbearably primitive from the perspective of the 2090s—I can barely remember how we got along 10 years ago without ATMs and fax machines and PCs.

Paepke is similarly off base in assessing the vitality of the other three forces driving material progress. He properly credits the development and spread of market institutions with launching the spectacular growth of the last 200 years, but then he argues that "the very completeness of capitalism's triumph shows that the freeing of markets has already made its major contribution."

Would that it were so. The bulk of the world's people and resources remain either trapped in subsistence agriculture or controlled by statist planners. In our own country government consumes or controls over half the national income, and we're the freest nation on the planet.

Gains in wealth from the unification of local and national markets through trade are approaching their limits, asserts Paepke, because "all the advanced nations are integrated into a single worldwide economy." Of course, the vast majority of the world's population does not live in the "advanced nations" and is only marginally involved in global trade and investment flows. Even in the developed nations, the international economy is still disproportionately dominated by commodities and manufactured goods; the potential of information technology to globalize services is just beginning to be realized. And over the much longer term, space travel can let us move beyond simply a global economy.

Capital accumulation fares no better in Paepke's view. He argues that increasing affluence diminishes people's incentives to save and thereby fund further economic growth. He has a point, but unfortunately it cuts against not only material progress but "human progress" as well. After all, genetic engineering and artificial intelligence are going to cost a lot of money, and it has to come from somewhere.

Not to worry, though: The connection between rising incomes and falling savings rates, though probably real, is less than meets the eye. First, the savings-as-percentage-of-GDP statistics commonly cited have their fair share of problems, not the least of which is their failure to include unrealized capital gains as savings. More importantly, the governments of the United States and other industrialized nations, through their policies of punitive taxation and continual inflation, are waging a war on savings. The main factor depressing savings today isn't affluence; it's bad pol-

icy. In short, though the forces of material progress may be losing a little steam, they remain immensely powerful and unlikely to fade away in anything resembling the foreseeable future.

Paepke's argument completely falls apart when he tries to exclude the "human progress" now emerging from the larger phenomenon of economic growth. These new human-ability–enhancing technologies will open up new markets, create new industries, generate new fortunes, and promote a general uplift in living standards. That's economic growth, folks. It is ludicrous to talk about "the end of economic growth" while in the same breath extolling the enormous promise of these technologies—you can't have stagnating living standards *and* rising life spans.

If Paepke had simply argued that human progress will soon replace material progress as the most dynamic area of economic growth and social change, he might have sold me. Instead, he goes overboard into nonsense, arguing that material progress is coming to an end, and that human progress will emerge apparently through some kind of immaculate conception unmediated by economic transactions.

So why read a book with a nonsensical argument? Well, Paepke's discussion of the historical forces behind material progress offers a solid, useful summary of "how the West grew rich," in Nathan Rosenberg and L. E. Birdzell's phrase. And his treatment of such brave new fields as genetic engineering, intelligence enhancement, and life extension provides a fascinating and accessible overview of the cutting edge of scientific research, as well as ample source references for the more technically minded.

Finally, Paepke's willingness to look at the big picture and speculate on future social development challenges the reader to widen his own perspective, to get past the buzz and clutter of daily headlines and take a longer view. Provoking if not convincing, *The Evolution of Progress* is worth a read.

Contributing Editor Brink Lindsey is director of regulatory studies at the Cato Institute.

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Policing the Academy II

BY CHARLES K. ROWLEY

Impostors in the Temple, by Martin Anderson, New York: Simon & Schuster, 255 pages, $22.00

Inside American Education, by Thomas Sowell, New York: The Free Press, 368 pages, $24.95

Universities, if they stand for anything in the prevailing environment of moral relativism and deconstructionism, are the guardians of good scholarship. By guaranteeing excellence in instruction and rigorous honesty in research, they demonstrate that it is possible to seek out the truth without tarnishing that search by responding to the many temptations of the external environment. Such was their early origin in the medieval monasteries, and such is their prime justification in the modern world.

If this is correct, several (at least) of the country's elite universities, most notably Stanford, are no longer universities in any meaningful sense of that term. That is the principal message of Martin Anderson's *Impostors in the Temple* and Thomas Sowell's *Inside American Education.* These books follow a series of popular works, all highly critical of America's universities, that have focused on a recent spate of scandals, mostly at elite private universities. Anderson and Sowell provide the best contributions so far to the debate over America's universities. Both books are well documented, scholarly, and well written. They are very persuasive concerning the decline and fall of the American academy that has paralleled the closing of the American mind.

In *Impostors in the Temple*, Anderson explores two episodes at Stanford—one involving a professor's death and one involving overhead charges for government-funded research—that reveal much about the institution's ethos. Allan Cox was a world-renowned scientist, a former dean of the School of Earth Sciences who had just been named acting associate provost and dean of all research activities at Stanford. He met an untimely death, at age 60, in January 1987 when the bicycle he was riding hit a California redwood tree, which smashed his skull.

Cox was eulogized in a statement to the press and at a memorial service jammed by a capacity crowd of 1,000. At the service Donald Kennedy, president of Stanford, lauded him: "We loved him, we trusted him, and we still do. Most of all we wish that he were here so that we could show him." Cox was honored by the Stanford faculty in a unanimous resolution crafted by Nobel-laureate economist Kenneth Arrow: "The essence of Allan Cox is a rare quality—the ability and determination to bring out the best in others." The Stanford administration minted a medal in Cox's honor: the Allan V. Cox Medal for Faculty Excellence Fostering Undergraduate Research at Stanford University. The announcement of the medal stressed that it "honors Cox's vision of the potential for faculty-student partnership."

But the real circumstances surrounding Cox's life and death were dramatically different from the false image projected by senior members of his university. The county coroner later confirmed that the death was a suicide, a staged accident, after three of Cox's close friends told investigators that Cox had revealed his suicide plans to them the day prior to his death. The learned professor had reason to contemplate ending his life. The local sheriff's department had just received a complaint from Bellingham, Washington, alleging that "Cox had molested a nineteen year old youth from the time that he was fourteen."

The boy whom Cox had allegedly seduced was the son of a Stanford Ph.D. student whose work Cox was supervising. Confronted by the boy's father, Cox allegedly had admitted the facts and had offered to help pay for the boy's counseling. Three days before his suicide, Cox learned that the parents and the son had provided Bellingham police with signed statements accusing the professor of molestation, a felony offense. These events were well publicized throughout Palo Alto before the eulogy charade.

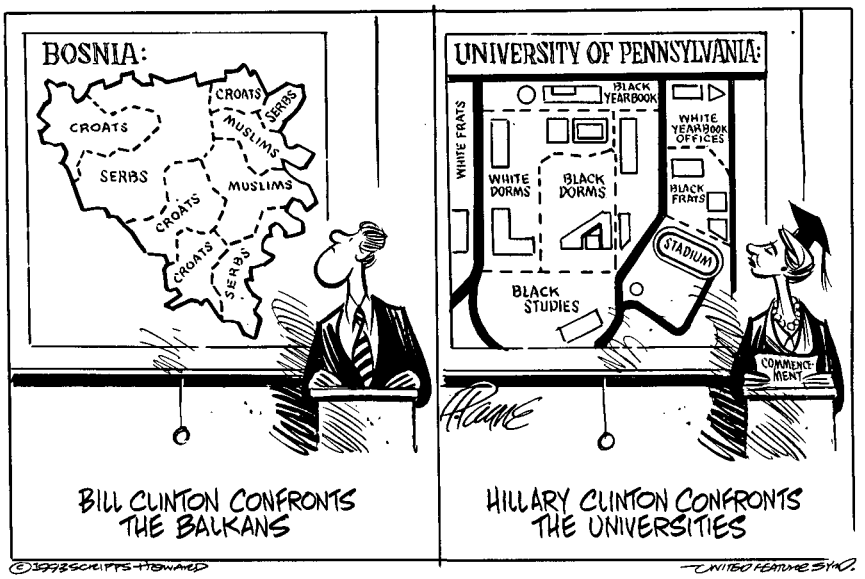
Martin Anderson does not pass moral judgment on Cox, although molestation of a minor is a heinous offense. Instead, he passes moral judgment on those members of Stanford University who perpetuated the lie about his life and death. Stanford's Cox Medal, Anderson argues, is an institutional lie, and its existence says a great deal about the nature of the academic intellectual community in the 1990s.

Nor is this the only lie involving Stanford's administration. During the '80s Stanford received hundreds of millions of dollars from the federal government for research. At the end of 1991, after a lengthy examination of the books, federal auditors determined that the university may have overcharged taxpayers $480 million for research costs. Once again, Stanford President Donald Kennedy was at the center of the alleged fraud.

The thesis of *Impostors in the Temple* is not complex: The members of the governing boards of America's universities—variously referred to as trustees, regents, overseers, and visitors—are responsible for the death of integrity in the world of higher education. They make the rules, they are ultimately responsible for monitoring, they are the ones who bear the guilt, even if they will not acknowledge the shame. They have proved totally derelict in their duties and, in consequence, they have presided over the disintegration of higher education in the United States.

A survey conducted by the Association of Governing Boards of Universities and Colleges in 1985 estimated that there were 48,000 trustees and regents governing some 3,200 institutions of higher education. Most of them, 86 percent, governed private schools, while the remaining 14 percent were on boards governing public universities. As Anderson notes, there is a thread of responsibility in the governing of public colleges and universities, since most of their trustees are selected by a government of-

ficial who is elected by the people. But even that slender thread is missing in the private colleges and universities, which, in effect, are responsible only to themselves. As a consequence of an incestuous selection system, the typical trustee is an old, white male, a businessman who holds no advanced academic degree, a non-intellectual. The composition of most boards of trustees, Anderson writes, "is a recipe for disaster, a witch's brew of incompetence, timidity and neglect."



In the absence of effective monitoring, agents within the academy—presidents, other senior administrators, and the tenured professoriat—have seized control and have pursued their own selfish bureaucratic objectives at the cost of teaching and good scholarship. They have done so with few financial constraints. Public universities had access to rising state budgets throughout the '80s, and private universities have long conspired to rig prices. The latter practice, Anderson contends, is symptomatic of the contempt in which much of the private academy holds its own clientele.

Anderson's main focus is on the alleged abandonment by faculty of their responsibilities for sound teaching and advising of students in favor of highly specialized, often meaningless, and almost always poorly communicated research—the "glass bead game," as he aptly labels it. Hermann Hesse's 1943 novel, *The Glass Bead Game*, was a parody of the intellectual world as Hesse saw it then, but it is remarkably prophetic of our own time. The glass bead game in Hesse's book was just a game. But it was played with such intensity that it gradually took over the professional lives of the intellectuals who played it. As they played the game with increasing skill and fervor, they retreated from reality, earning respect and honor for their game skills as the highest possible level of intellectual achievement, even as they soared off into ultimate irrelevance.

Anderson offers one example after another of glass-bead-game scholarship in contemporary America, not least in his own discipline of economics. The phenomenon is epitomized by the tragi-comedy of *The American Economic Review*, a journal that specializes in publishing trivial irrelevance, that is all but unreadable, and that would probably not survive under free-market conditions.

Playing the glass bead game, so-called scholars reduce their own teaching commitments to negligible proportions, exploit graduates as teaching assistants, sacrifice the search for knowledge in favor of mindless publications, and indulge themselves in unchecked intellectual arrogance, lust for power, and professional, political, and personal corruption—all of which have brought their institutions into general disrepute. Although Anderson illustrates the breakdown in graphic detail, it's worth noting that most of his examples are drawn from elite universities. I must say that my own personal experience at George Mason University, both as faculty member and as graduate dean, does not generally support his principal hypotheses. Political pressures almost inevitably would culminate in the dismissal of the president should any state university significantly emulate the malfeasance of the private sector as described in *Impostors in the Temple*.

Although Anderson's book is powerful in identifying the malaise that blankets the U.S. academy, it is somewhat weak and misguided in its proposed solutions, which tend to be institutionally conservative rather than radical and market-oriented. He identifies 10 measures that are necessary "if we are to restore the integrity of the academic intellectual world": 1) prohibit student teaching, 2) stop rewarding spurious research and writing, 3) change the Ph.D. degree process, 4) end faculty tenure, 5) reorganize faculty titles and responsibilities, 6) return to the four-year bachelor's degree, 7) take sexual harassment seriously, 8) ban political discrimination, 9) stop athletic corruption, and 10) crack down on institutional corruption.

Unfortunately, although Anderson briefly identifies the failure of property rights that has brought the American academy to its knees, he does not translate that insight into an effective program of market-based reform. Instead, he proposes adding more intellectuals to the governing boards, "men and women who understand the business they intend to oversee." He suggests that the news media should place university trustees under relentless investigative pressure, that the trustees should be paid appropriately for their services, and that they should be sued mercilessly for any breach of their fiduciary responsibilities.

Anderson does not adequately take account of the fact that the absence of market pressures seriously erodes incentives to detect and punish bad behavior. Perhaps most dangerously, he equates scholarly success with administrative zeal and efficiency. Many leading intellectuals rank among the worst of the impostors in the temple, the least dedicated to teaching and service of all the faculty under Anderson's microscope, the least fitted to deal with the exigencies of the real world.

HENRY PAYNE

Thomas Sowell's book is wider in scope than Anderson's, depicting the decline and fall of American public schools as well as its colleges and universities. In his chapters on higher education, Sowell observes that the quality of American college education has declined and is unacceptably low; that ideology has supplanted academic skills in too many social-science and humanities courses; that campus racial policies have had disastrous consequences; and that free speech has been sacrificed to the ideological conformity of politically correct thinking. Sowell mounts a well-documented and convincing case in support of each of these contentions, offering examples so disturbing that I cannot help but conclude that many of America's elite colleges and universities are filled with faculty who are intellectually and morally depraved.

Sowell shows how a declining school system has reduced average SAT scores for college undergraduates in return for dramatically increased budgets. He describes how universities' admissions offices cynically mismatch black undergraduates, placing many of them in colleges too advanced for their educational skills, so that three-quarters of all black undergraduates fail to graduate within five years. He shows that many social-science and humanities faculty abuse tenure in order to promote political agendas or to peddle pornography under the guise of interdisciplinary studies:

"At Arizona State University, a student in a course on 'Human Sexuality' testified before the institution's board of regents that the slides shown included not only 'genital penetration from a variety of positions and angles' but also oral sex, to the accompaniment of such professorial remarks as 'I sure hope she doesn't sneeze' and 'Imagine if she got a cramp in her jaw now.' Another student in the course, a young woman who missed an examination, reported that she was told by the professor that she could make it up by writing a ten-page paper on her own sexual experiences."

Sowell demonstrates the systematic discrimination by college administrators against white male students and the indoctrination to which they are ruthlessly submitted. He offers examples of the slippage within academia from standards of truth and integrity to conform with the lies and obfuscation of politically correct agenda setters dominated by gays, feminists, Marxists, and underqualified racial minorities, many of whom justify their university positions on non-scholarly grounds, especially in the leading institutions.

"Like mismatched minority students," Sowell writes, "mismatched minority faculty have sought refuge in non-intellectual pursuits, such as community activities and campus political activism, in denunciation of standards they do not meet, and in complaints about the moral shortcomings of colleagues or of American society in general. Given the stark alternatives of (1) losing one's self-respect by accepting the prevailing academic standards and values, and (2) protecting one's self-respect by repudiating those standards and values, it can hardly be surprising that many have chosen the latter."

Our universities are characterized by producers who don't sell, customers who don't buy, and owners (donors and taxpayers) who don't control. In this environment of inadequately specified property rights it's not surprising that the producers are left with power that they abuse in many ways.

Sowell is less sweeping than Anderson in his condemnation of the American academy. He recognizes, correctly, that many American postgraduate institutions are unsurpassed anywhere in the world and that many small liberal-arts colleges offer a fine undergraduate education. He is more cautious than Anderson in condemning the research orientation of faculty in the major universities. Simultaneously, he is more critical even than Anderson on issues of race and political correctness. As a leading black economist, he can speak more freely and honestly on such matters in the current, intolerant intellectual climate.

Yet Sowell, like Anderson, is short on solutions, relying essentially on the abolition of tenure and the promulgation of information to the trustees as the pillars of his academic reform. Sowell also fails to identify the failure of property rights that is at the root of the problem. Consequently his solutions are superficial, attempting to paper over the consequences rather than addressing the causes of the threatening disaster.

In *The Wealth of Nations*, Adam Smith identified public endowments as a significant contributor to indolence and sloth within institutions of education, especially at universities where a teacher was prohibited from receiving any fees from his pupils: "The interest is, in this case, set as directly in opposition to his duty as it is possible to set it. It is the interest of every man to live as much at his ease as he can; and if his emoluments are to be precisely the same, whether he does, or does not perform some very laborious duty, it is certainly his interest, at least as interest is vulgarly understood, either to neglect it altogether, or if he is subject to some authority which will not suffer him to do this, to perform it in as careless and slovenly a manner as that authority will permit."

American universities are institutions characterized by producers who do not sell, customers who do not buy, and owners (donors and taxpayers) who do not control. In this unpromising environment of inadequately specified property rights, it is not surprising that the market nexus fails to materialize, leaving the producers with extensive power that they predictably abuse in the tragic ways depicted by Anderson and Sowell. It is not surprising that customers who value university services well below the cost of providing them do not exercise even such authority as they possess to discipline universities, or that they do not treat their programs with the respect that a full market price would evoke. It is not sur-

prising that trustees who do not receive profit-related bonuses for their services show little or no enthusiasm for the efficient governance of their institutions.

In 1989-90, voluntary contributions to higher education from alumni, foundations, corporations, and others totaled almost $10 billion. In addition, private endowments built up from past contributions exceeded $1 billion in each of at least a dozen academic institutions. The federal government appropriated approximately $15 billion of taxpayers' money in the form of subsidies, grants, and contracts. State governments appropriated a further $33 billion from their own budgets. Students on average paid much less than 50 percent of the full cost of their higher education from their own or from their parents' budgets. People who are able to secure a university education rely on tax subsidies from the less wealthy to enhance their human capital, further widening the initial inequality of wealth and income in the United States.

Government subsidies exert a corrosive influence on the quality of higher education, destroying the market nexus between customer and supplier and bringing with them a host of affirmative-action and other conditions that distort the higher-education market, that violate individual property rights and demoralize the academies. With subsidies come notions of entitlement that have persuaded the American academies to accommodate students who are unfitted, by reason of intellectual incapacity or indifference, to the rigors of higher education.

In those universities that have acceded to financial incentives to downgrade the quality of their enrollments, to the mismatching of minority students, and to the grade inflation necessary to graduate the misfits, it is little wonder that many talented faculty hesitate to commit large proportions of their time to undergraduate instruction. It is little wonder that underqualified faculty discover a ready clientele for undemanding courses in pornography or in political indoctrination. It is little wonder that once-renowned institutions such as Stanford sink into a morass of lies and fiscal malfeasance.

Socialism does not work in American higher education any better than it worked in the Soviet Union, and for precisely the same reasons—most especially, the destruction of property rights that it implies. What is missing from the American academy is the ruthless, impartial monitoring and wealth-maximizing market incentives that only competitive capitalism provides.

Suppose that all federal and state subsidies were removed from the American higher-education system, together with the tax privileges the schools now enjoy. Marginal students would immediately withdraw from the system, and, under the pressure of a major contraction, the existing tenure system would collapse. Absent subsidies, aggressive, for-profit university corporations would emerge, offering varied educational packages, constrained by stock-market surveillance.

Some universities no doubt would attract faculty by offering tenure or long-term contracts, with salaries reflecting the job security thus provided. Others would compete with higher salaries but short-term contracts. Some faculty would seek out salaried employment. Others would incorporate themselves as independent contractors. The market would find a competitive equilibrium reflecting varied consumer preferences. Well-qualified students eager to partake in higher education but too poor to pay their way would borrow against the enhanced human capital that a truly effective college system would deliver. They would know that their fees would directly influence the pattern of educational services that they would receive.

Those of us who share classical-liberal principles should not rush to endorse institutionally conservative solutions, even when we are shocked by the evidence presented in these two forceful books. Instead, let us use the evidence as ammunition in a crusade to privatize America's last outposts of Marxism-Leninism.

Charles K. Rowley is general director of the Locke Institute in Fairfax, Virginia, and professor of economics and senior research associate at the Center for Study of Public Choice, George Mason University.

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KILL *ALL* THE LAWYERS?

BY THOMAS W. HAZLETT

Here's what happened in California, and I swear I'm not making it up:

Every solid citizen has been in a real foul mood for 15 or 20 years on account of the fact that there's almost nothing fun or the least itty-bit dangerous anyone can do without running into the long arm of the law. You can't even shoot an intruder who gets caught in your hallway at half past midnight or giggle at a Polish joke without finding yourself caught in a legal morass that traps you for years and sucks your entire life savings into the European vacation account of some attorney/amateur golfer.

But you accept this as marginally better than life in some communist totalitarian hell hole, which was commonly depicted, until recently, as the relevant alternative. You pretty much keep quiet, pay usurious taxes, fork over insurance premiums about equal to the GDP of Tonga, and try to steer clear of the legal system the best you know how.

Then, one of our friendly neighborhood loonies—the kind the California Poverty Assistance Legal Center for the Defense of the Criminally Insane routinely uses some slice of your gross earnings to spring from cruel and inhumane incarceration—cracks. He thinks he's been chiseled by a law firm, and he assaults their plush San Francisco skyscraper offices with the appropriate gear: By the time he turns one of the guns on himself, eight others lie dead. A modern-day tragedy.

You'd think it was time for a moment of silence. Not at L.A. Law. Before the dead could be buried, the chief of the California state bar association, the Hon. Harvey Saferstein, called a Century City press conference to blame the mass murder on...*society*. Whereas the unsophisticated mind may have placed the culpability for murder on the murderer, it took a highly trained legal specialist to note the real culprit: lawyer bashing. And, having ID'd the suspect, the counselor was ready with a remedy: extending "hate crimes" to include extra punishment for those denouncing members of the bar.

Let me see. People are upset about lawyers blaming the victims, letting criminals off the hook, and loading up society with costly, excessive litigation. And so here, when a nut shakes loose and mows down innocent human beings, the head lawyer says not one word about punishing wrongdoers. Instead, he shines the light of responsibility on those who joke about lawyers. And next time you begin a paragraph with, "Did you hear about the plane that crashed with 200 lawyers on board," he's going to sue you. That *is* a good start.

Mr. Saferstein is a tribute to his species. His press conference singled out people who enjoy what they thought was innocent good fun—dead-lawyer jokes and commercials that describe a "perfect planet" as one devoid of attorneys—and nailed them for murder. Comparing lawyer humor to racist stereotyping, he blamed the public for contributory negligence. If you've told an attorney joke, shame.

Well, I've told plenty of 'em. And I don't feel the slightest bit guilty. Indeed, I believe that lawyer-bashing jokes are a) fun, b) funny, c) healthy, and d) a prophylactic against physical aggression (sometimes called "a release"). Are they true? No—because then we wouldn't be *joking*. Something absurd that happens in real life is called...a California bar association press conference.

The gunman in the San Francisco tragedy, Gian Luigi Ferri, 55, claimed the firm he was shooting up gave him bad advice on an investment. A four-page note found on his person threw accusations at members of the firm who had "raped" him, calling them "rapists, criminals, and racketeers." Psychologists were quick to describe the deceased as suffering from paranoia and a victim complex.

Mr. Saferstein was apparently touched by this surprisingly contagious malady. Although he viewed all lawyers as members of a victim class, the legal beagle conceded, according to the *Los Angeles Times*, "that no evidence exists of a connection between lawyer jokes and violent acts against lawyers." This did not stem his feelings of persecution, however, or keep him from lashing out at law-abiding citizens for wrongful joking. They're endangering my people! he intuited, screaming against ominous trends, oblivious to reality.

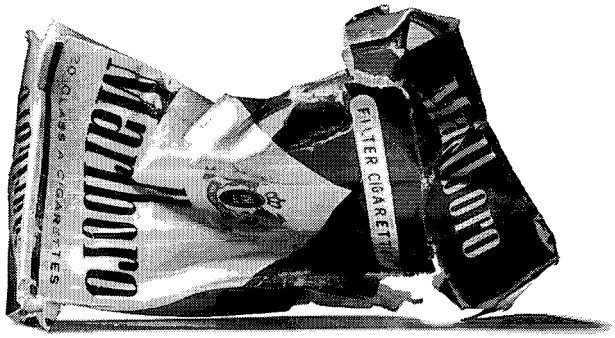
In his delusional state, Mr. Saferstein missed an important point: Outlawing *verbal* lawyer bashing just might contribute to the real thing. There's a null hypothesis you could test out in your very own backyard, Mr. Saferstein. Tell your wife and kids they are not to utter one facetious, derogatory word to you, or about you, for the rest of their natural lives. Please report back your results. You or your heirs.

Lawyer bashing is a popular sport in America, no doubt. And some would say that lawyers are a despised class in contemporary society (catch the recent best seller *101 Things to Do With a Dead Attorney*) because of a common perception: They cause trouble for people minding their own business while getting criminal perpetrators off the hook with cutesy little lawyerly tricks. Some of us had thought that might have been a misperception, but happily Mr. Saferstein salvaged the conventional wisdom.

And he kept an interesting chain of events in motion. The lunatic blamed the lawyers for his trouble. And he killed them. Now the lawyers blame us for their trouble, and they sue us. I guess the next move is ours.

Contributing Editor Thomas W. Hazlett teaches economics and public policy at the University of California, Davis.

Philip Morris



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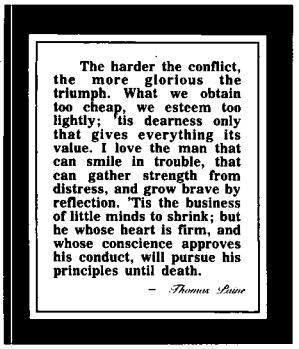
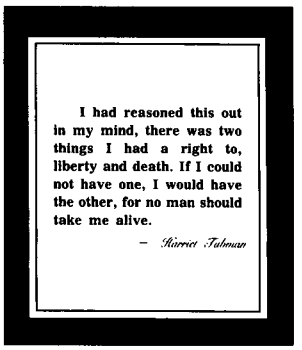

The harder the conflict, the more glorious the triumph. What we obtain too cheap, we esteem too lightly; 'tis dearness only that gives everything its value. I love the man that can smile in trouble, that can gather strength from distress, and grow brave by reflection. 'Tis the business of little minds to shrink; but he whose heart is firm, and whose conscience approves his conduct, will pursue his principles until death.
– Thomas Paine

TP01

Powerful and stirring quotations from men and women who understood man's right to freedom and individuality


I had reasoned this out in my mind, there was two things I had a right to, liberty and death. If I could not have one, I would have the other, for no man should take me alive.
– Harriet Tubman

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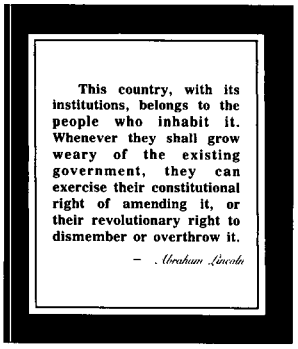
This country, with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing government, they can exercise their constitutional right of amending it, or their revolutionary right to dismember or overthrow it.
– Abraham Lincoln

AL03

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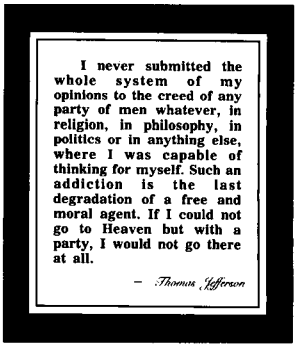
I never submitted the whole system of my opinions to the creed of any party of men whatever, in religion, in philosophy, in politics or in anything else, where I was capable of thinking for myself. Such an addiction is the last degradation of a free and moral agent. If I could not go to Heaven but with a party, I would not go there at all.
– Thomas Jefferson

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